S. HRG. 98-112

RAILWAY LABOR DISPUTE—CONNECTICUT AND NEW YORK, 1983

HEARING

BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 1058

PROVIDING FOR THE RESOLUTION OF THE CURRENT RAIL LABOR DISPUTE IN CONNECTICUT AND NEW YORK, AND FOR OTHER PURPOSES

APRIL 15, 1983

Printed for the use of the Committee on Labor and Human Resources

U.S. GOVERNMENT PRINTING OFFICE
20-709 O
WASHINGTON : 1983

S541-24

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RAILWAY LABOR DISPUTE—CONNECTICUT AND NEW YORK, 1983

FRIDAY, APRIL 15, 1983

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 1 p.m., in room SD430, Dirksen Senate Office Building, Senator Lowell P. Weicker, Jr. (acting chairman of the committee), presiding.

Present: Senators Weicker, D'Amato, and Dodd.

Also present: Congressmen McKinney and Ratchford.

Senator WEICKER. This hearing of the Senate Committee on Labor and Human Resources will come to order.

We are beginning this hearing promptly today because I understand that some of the witnesses present, and scheduled to testify, may have time constraints, and it is the committee's intent to try and accommodate all those individuals so desiring to speak. If I had my druthers, I would like to go ahead and close the doors and make sure that nobody gets out of here until this strike is settled. And who knows? That might still be an option of the chairman before we are through with the hearing. I have always wanted to get locked up in a room with Governor O'Neill, and this might provide the opportunity.

I have asked Senator D'Amato of New York to join with the committee in this endeavor, as he is one of the coauthors of the legislation that is before us.

I have an opening statement which I am going to submit for the record in the interest of time. I think it can all be summed up by the fact that I think there has been enough talk and enough rhetoric. I think the time has come to get this strike under control, settled, people back to work, and other people riding on trains to work.

[The opening statement of Senator Weicker follows:]

OPENING STATEMENT OF SENATOR WEICKER

Senator WEICKER. Yesterday, I introduced S. 1058, legislation to provide for a resolution to the current labor dispute between two commuter authorities—the Connecticut Department of Transportation [ConnDOT] and the Metropolitan Transportation Authority [MTA]—and certain employees of the United Transportation Union [UTU].

The reason I introduced this legislation is that nearly 90,000 commuters in the New York/Connecticut area have been without rail service for more than 5 weeks. The continued interruption of rail service to the region poses a severe threat to its economic viability and to the health, safety, and welfare of the commuters who depend on this service.

I would prefer to see a resolution of this labor dispute through the collective-bargaining process. This process has long been the mainstay of labor-management contract proceedings in this country, and I believe that it should continue to prevail as the means by which such contracts are negotiated. Last week, I joined my good friend Senator D'Amato in supporting Governor Mario Cuomo's call for round-the-clock negotiations.

However, as of midnight on Sunday, April 10, those negotiations had broken down, with the parties firmly entrenched in their respective positions. They had reached an impasse on the major outstanding issue—management's prerogative to set crew size versus the principle of "crew consist"—labor's term for a guaranteed number of trainmen per number of cars. It now appears that all channels for resolution of this dispute through the collective-bargaining process have been exhausted. Therefore, Senator D'Amato and Senator Dodd—who joined me in introducing this legislation—and I urge our colleagues to recognize the intractibility of this situation and to support this legislation.

The strike stems from the transfer of rail service operations from Conrail to a newly formed subsidiary of the MTA, the Metro-North Corp. Pursuant to the Northeast Rail Services Act [NERSA], Congress directed that Conrail be relieved of its commuter rail obligations by January 1, 1983, in an effort to make Conrail a more efficient freight rail system. The legislation established a process for transferring commuter rail service operations to either a subsidiary of Amtrak—the Amtrak Commuter Service Corp.—or the commuter authorities. The MTA and ConnDOT chose to take over the service themselves and entered into negotiations with the various unions, successfully securing contracts with all but the UTU by the transfer date.

Pursuant to section 510 of NERSA, the commuter authorities and the UTU exhausted all means of resolving the outstanding issues of rules, pay, and working conditions, including submitting the dispute to a Presidential Emergency Board convened at the request of the States of New York and Connecticut on October 1. Although the emergency board recommendations were rejected by the UTU, service did begin on January 1 when Metro-North took over from Conrail. Continued efforts to achieve a resolution through collective bargaining failed to yield a solution, and the UTU went on strike on March 7, 1983.

I have met with the parties and kept in close communication with the States of Connecticut and New York for 5½ weeks. With no end in sight, it is now my responsibility, and the responsibility of the Congress, to question the cost borne by groups not party to the negotiations—the commuters and businesses of the two States.

For my constitutents in Connecticut, the strike has been an unmitigated hardship over which they have had no control. The State of Connecticut is to be strongly commended for its efforts to provide alternative transportation service by bus. Some have chosen the bus and subway route. Others have formed carpools, and some large companies have resorted to van pools. However, the New Haven rail line is an essential service for which there is no real substitute. The existing highways to and from New York City and New Haven are already badly congested and the additional traffic forced onto these limited arteries threatens public safety. At best, traveling time has doubled during the strike.

Costs have also skyrocketed. A monthly rail commuter ticket from Greenwich, Conn., the closest-in town to New York, costs just over $100. The cost for bus and subway for 4 weeks is at least $190. From points farther north and east, the costs are significantly greater.

While we do not yet have all the supporting documentation, it is clear that the strike also has had a serious impact on businesses throughout the region, which is, of course, a major metropolitan center. Should the strike continue, the economic viability of the area could be threatened. With these various facts in mind, we feel we have no choice but to seek action on the Federal level.

S. 1058 is similar to legislation introduced by Congressman Stewart McKinney on April 12, 1983. It provides for immediate restoration of commuter rail service on the New Haven, Harlem, and Hudson lines and submits outstanding issues to binding arbitration. The conductors would return to work under contract provisions already agreed to by the parties at midnight of April 10, the last formal bargaining session called by the Federal mediator. I believe this provision preserves compromises and agreement achieved to date by the two parties. Until outstanding issues are resolved, the UTU would operate under rules which were in effect before the takeover from Conrail, prior to January 1, 1983.

A tripartite arbitration board, consisting of a member chosen by each side and a third member jointly agreed to by the union and transit authority, would then determine the crews size and any other undecided issues.

If the two parties fail to agree on a third member within 45 days, the Governors of New York and Connecticut will jointly make the appointment within 10 days.

The two parties would then have 10 more days to present their arguments and the arbitrators then would have 30 days to issue a decision, which would be binding on the parties. Under the process envisioned in the legislation, a final decision would be handed down by the arbitrator with 95 days of enactment of the legislation.

I believe that this bill would achieve two desirable courses of action—the resumption of commuter rail service for the States of Connecticut and New York and the resolution of a very difficult issue, which the unions and commuter authorities seem unable to reach agreement on. I believe the people of Connecticut and New York have suffered long enough.

[The text of S. 1058 follows:]

II

98TH CONGRESS
1ST SESSION

S. 1058

Providing for the resolution of the current rail labor dispute in Connecticut and New York, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14 (legislative day, APRIL 12), 1983

Mr. WEICKER (for himself, Mr. D'AMATO, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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A BILL

Providing for the resolution of the current rail labor dispute in Connecticut and New York, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 510 of the Rail Passenger Service Act is amended by adding at the end the following new subsections:

"(i)(1) Any work stoppage arising out of any dispute between the Metropolitan Transportation Authority in conjunction with the Connecticut Department of Transportation and the employees of such commuter authorities represented by the United Transportation Union with respect to a collective bargaining agreement covering service transferred from

Conrail to such commuter authorities under this title shall terminate on the date of enactment of this subsection.

"(2) The rates of pay, rules, and working conditions under which the service referred to in paragraph (1) shall be operated shall be as agreed upon during the collective bargaining process by the parties to the dispute before 12:01 antemeridian, April 11, 1983, except that where such parties were not in agreement on such date on such rates of pay, rules, and working conditions, the rates, rules, and conditions under which such service was operated by Conrail immediately before the transfer of such service to such commuter authorities shall apply until the arbitration panel issues its decision under subsection (j).

"(j)(1) An arbitration panel shall be established as follows:

"(A) One member shall be named not later than 30 days after the date of enactment of this subsection by the United Transportation Union.

"(B) One member shall be named not later than 30 days after the date of enactment of this subsection by the Metropolitan Transportation Authority, in conjunction with the Connecticut Department of Transportation.

"(C) One member shall be named not later than 45 days after the date of enactment of this subsection jointly by the United Transportation Union and the Metropolitan Transportation Authority, in conjunction with the Connecticut Department of Transportation.

"(2) If the parties are unable to agree, within 45 days after the date of enactment of this subsection, on a member of the arbitration panel under paragraph (1)(C), the Governors of the States of Connecticut and New York shall name such member within 10 days after the expiration of such 45-day period.

"(3) The Metropolitan Transportation Authority, in conjunction with the Connecticut Department of Transportation, and the United Transportation Union shall submit to the arbitration panel, within 10 days after such panel is established under paragraphs (1) and (2), arguments and proposals pertaining to any issues which remain unresolved with respect to the collective bargaining agreement referred to in subsection (i).

"(4) Within 30 days after the submission of all arguments and proposals pertaining to unresolved issues under paragraph (3), the arbitration panel shall issue a decision which shall establish rates of pay, rules, and working conditions with respect to such issues for purposes of the collective bargaining agreement under dispute. Terms specified in such decision shall be binding upon the parties.

"(5) Nothing in this section or section (i) shall preclude the parties to the dispute from reaching agreement on rates of pay, rules, and working conditions, prior to the arbitration panel's issuance of a binding decision pursuant to (4).".

○

Senator **Weicker**. With that, the committee will hear Senator D'Amato for whatever statement he cares to put into the record, and then we will move to our first witness, Congressman McKinney.

STATEMENT OF HON. ALFONSE D'AMATO, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator **D'Amato**. Thank you very much, Mr. Chairman. At the outset, let me thank you for inviting me to participate and also for your leadership in helping to craft, along with Congressman McKinney, legislation that I hope will result galvanize our congressional efforts and result in an expeditious resolution of this matter.

To summarize, the effects of the strike, Mr. Chairman, I would say that this strike has accomplished in the New York area for mass transportation that which David Stockman and OMB's budget proposals would achieve with respect to all mass transportation: the complete elimination of it.

That, I would suggest, is intolerable. Intolerable for the 90,000 commuters, intolerable for the economic life and wellbeing of our communities in the New York metropolitan area.

I believe, Mr. Chairman, that this legislation may not be the perfect solution, may not be the be-all and end-all, but is a vehicle by which, hopefully, we can gather a consensus to end this intolerable situation.

Mr. Chairman, I have a more complete statement for the record, and in the interest of brevity I would ask that I be allowed to submit it for the record.

Senator **Weicker**. Thank you very much. It will be put in the record at this point.

[The prepared statement of Senator D'Amato follows:]

Prepared Statement of Senator D'Amato

Mr. Chairman, I would like to thank both you and the committee for inviting me to participate in what I believe to be an absolutely critical hearing concerning the Metro-North strike.

Today marks the 40th day of a strike which commenced in early March. Mr. Chairman, you and I have spoken extensively with both sides involved in this labor dispute in an effort to bring about a settlement without legislative intervention. The labor law of this Nation is founded on the principle of collective bargaining. I believe in that process.

However, notwithstanding exhaustive bargaining sessions and the intervention of a Presidential Emergency Panel, an impasse remains. The people back home both in New York and Connecticut see no end in sight, and quite frankly Mr. Chairman, neither do I.

We will be hearing testimony today from Metro-North, the subsidiary corporation of the Metropolitan Transportation Authority which assumed operations of the old Conrail Harlem, Hudson, and New Haven lines at the beginning of this year. We will also hear from the United Transportation Union, the one remaining union which has not reached a labor agreement with Metro-North. In addition we will be hearing from a representative of the Department of Transportation, and various Federal and State representatives who share our concern with this strike and wish to see an end to this intolerable situation.

Because of the short notice on which we are conducting this hearing, Mr. Chairman, we unfortunately are not able to hear from the party who is most effected by this strike and our major concern here—the commuter.

In New York and Connecticut 90,000 commuters have suffered a tremendous hardship as a result of this strike. Thousands of our commuters are wasting hours and hours getting to and from work each day and spending twice what they would ordinarily spend on alternate means of transportation.

Over the last several weeks, I have heard from constituents who arrive late to work. I've also heard from employers who receive less productivity from employees arriving late and who are exhausted after a more than 2-hour trip to work. This, of course, has a detrimental impact on the economy of the New York metropolitan area.

Just this morning I heard from a Mr. John N. Baitsell, corporate labor relations manager of the Mobil Corporation; 850 of his employees are directly effected by this strike. To date Mobil has spent some $375,000 on buses to transport workers into the city and some $76,000 on hotel rooms for employees. Moreover, it is estimated that Mobil alone has lost 7,500 man-days because of this strike.

Family lives are being seriously disrupted as working mothers and fathers come home late to their children. Just the other day a working mother told me that she spent days at home rather than at work. Why? Because the trip from work to her home took so long that she would not be able to respond to a potential emergency involving her child.

Mr. Chairman, this strike has completely halted the operations of a critical mass transit network in New York and Connecticut. Yesterday I chaired hearings of the Senate Transportation Appropriations Subcommittee on Mass Transit and stressed the importance of it to this Nation. This strike, Mr. Chairman, has accomplished in the New York metropolitan area for mass transit that which O.M.B.'s budget proposals would achieve with respect to all of mass transit—that is, its total emasculation. During my tenure as Senator from New York I have been an ardent supporter of mass transportation. I was one of the principle authors of the mass transit reauthorization legislation signed by the President in January. I fear that this prolonged strike might, in the long run, result in commuters turning from the trains and back to the highways. The New York metropolitan area simply cannot tolerate this increased congestion on the roads entering the city. Moreover, decreased ridership will ultimately lead to service cutbacks, which in turn, will hurt the employees on the lines.

Yesterday, Mr. Chairman, you, Senator Dodd, and I introduced a bill, S. 1058, which will end this strike, result in a resumption of services to the commuters, and put the over 4,000 workers on these lines back to work.

This legislation is quite simple. It would call for the employees to return to work immediately. All issues which have been agreed to between Metro-North and the union prior to April 11 would take effect, and those issues on which there is no agreement will be submitted to binding arbitration. The bill provides a mechanism for the selection for the arbitration panel. It is my understanding that only one issue remains to be resolved—the crew consist issue. Mr. Chairman, for the record I would like to submit the recommendations of Presidential Emergency Panel No. 198 which made recommendations regarding the crew consist issue and other issues involved in the labor negotiations.

The legislation which we introduced represents an attempt to build a concensus around a solution which will bring about a fair settlement for the parties and put an end to this strike. There is precedent in past railroad labor disputes for sending issues to binding arbitration.

I am not wed to this particular proposal or any other. One of the purposes of today's hearing is to get input from parties involved as to how this bill might be refined so as to end this totally unacceptable strike.

Senator WEICKER. The first witness before the committee is Congressman Stewart McKinney of Connecticut's Fourth District. Stewart, it's good to have you here. Please proceed in any way you deem fit.

STATEMENT OF HON. STEWART McKINNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MCKINNEY. Thank you, Mr. Chairman, and also my good friend from New York, Mr. D'Amato, who suffers through other urban problems which they call the District of Columbia.

My statement is very brief.

Mr. Chairman, first I would like to thank the committee for scheduling hearings so promptly on this issue of great urgency. The Metro-North Commuter Rail strike has disrupted the lives of nearly 90,000 residents of Connecticut and New York for 6 weeks.

It has affected hundreds of businesses in Manhattan, Stamford, and other corporate centers in our region. While Federal intervention may seem an extreme step, there is precedent for such action. It is painfully apparent that the parties involved have reached an impasse in bargaining, and that they are unable or unwilling to resolve the problem at the table.

To review the situation, pursuant to the transfer of commuter lines from Conrail to local authorities, 16 out of the 17 unions have agreed to contracts with Metro-North to operate commuter service. The United Transportation Union, representing conductors and trainmen, has been on strike since February 7, and sporadic negotiation sessions to resolve remaining issues in contention have taken place since that date. At one time or another, each side has agreed to binding arbitration, but the terms recommended by a Presidential Emergency Board in December have not been acceptable to either. Negotiations have once again broken down.

Let me emphasize that the legislation before your committee, and that which I introduced in the House late last Tuesday, would not dictate the terms of any settlement. I do not view that as Congress role. Rather, we should establish a mechanism by which the parties and their chosen arbitrators may arrive at an agreement. To that end, our bill would allow an immediate return to work by striking union members under the terms to which they have already agreed during the collective-bargaining system.

The alternative of imposing the recommendations that the Presidential Emergency Board handed down last December has been suggested. That option would dictate the terms of one remaining unresolved issue, that of crew size. Since this has been the pivotal point of contention for the past month and a half, Congress should not impose any temporary new solution. Until this aspect is decided permanently, we propose a return to work under normal conditions in effect under Conrail prior to the transfer on January 1, 1983.

An arbitration board would then determine the terms of the unresolved issues according to a timetable specified in the bill. I wish to reiterate that we do not take it upon ourselves to appoint the members of that board, but would leave their selection to the parties involved. One member would be selected by the UTU, one by the MTA, and one jointly by both parties. If in fact they fail to agree on a third member, the Governors of the States of Connecticut and New York will jointly select a member to complete the board.

Mr. Chairman, the Federal Government has intervened several times in strike situations in the past. In 1973, Public Law 93-5 was approved by the Congress to resolve a situation very similar to the one we face today. In that case, the Penn Central Corp. and the UTU were at odds over who should determine crew size, and Congress stepped in to halt a strike affecting thousands of riders. I believe we are justified in doing so once again. The parties involved have followed all established procedures with respect to settling contract disputes. A cooling-off period was exhausted. A Presidential Emergency Board issued recommendations, and a mediator has been present at negotiations. However, no resolution is in sight.

The impact of the work stoppage on tens of thousands of commuters and their families has continued far too long. Although alternative plans for transportation into New York City were put into place immediately—and for that I congratulate the Commissioner of DOT in Connecticut, and all others involved—they have been unable to handle the normal amount of daily riders. Bus systems transport only about 4,000 riders into the city, and major highways have become clogged and dangerous as people resort to their cars for the long ride to work. The added commuting time has lengthened the typical work day by 2 hours or more. Working parents are barely able to see their children and spouses. And the toll taken on personal well-being, health, and productivity cannot be measured.

According to the New York City Chamber of Commerce, 60 percent of the businesses in Manhattan are reporting consistent tardiness or early departures from work. And 20 percent are reimbursing employees for the extra expense of commuting by alternative means, at great cost to themselves.

In the long run, overall business clientele could be affected, as well as decisions concerning the eventual location of many major corporations.

And I know, from personal conversations with my constituents, that many are seriously beginning to question the wisdom of living in the suburbs.

Mr. Chairman, I ask prompt consideration and passage of the legislation introduced by myself and the entire Connecticut delegation, and by you and Senator D'Amato of New York, so that residents and workers in the Nation's largest corporate center may return to some semblance of a normal life. It is clear that the strike will not be settled locally. It is time for Congress and the administration to step in on the behalf of hundreds of thousands of citizens who are affected.

I thank you for the opportunity to appear.

Senator **Weicker**. Thank you very much, Congressman McKinney.

First of all, let me say this: you were one of the first, if not the first, to respond with a legislative solution. You also represent, insofar as Connecticut is concerned, the largest block of commuters.

I would like to say to you, Stewart, that you did a hell of a job in putting together the legislation. For the most part it is similar to the legislation which Al and I proposed. There are few differences. And really, the principal difference is in the cut-off point in time as to what should be considered for abritration. Ours goes to that point in time when the negotiations broke off on Sunday, April 10. I believe the way your bill is written, matters could be withdrawn and there could be shifting positions up until the time of the legislation.

My question to you is, is it possible to work out this difference in the bills, or is there something here that you see as——

Mr. **McKinney**. Actually, and this is not usually said by the other body, I prefer yours. So you can rest assured that I would support that version. I think that is probably a very wise idea, to have an absolute set of——

Senator **Weicker**. Thank you very much.

Senator D'Amato.

Senator D'AMATO. I would like to compliment you, Stewart, for coming forth as early as you did when no one dared—including this Senator, although I indicated that I would support legislative efforts to end the strike.

Now, there are some interesting provisions of this bill, and one, obviously, is that upon its enactment the unions would return to work. Second, the outstanding issues that have not been settled would be submitted to a third entity, a binding arbitration panel. Each side appoints one arbitrator and the third arbitrator is selected jointly by both sides. If they cannot agree, then the Governors of both States appoint that third party.

Is that not correct?

Mr. MCKINNEY. That is correct. And I think it is nothing but fair, because in essence the Governors are suffering the economic loss and the Governors are paying the operating subsidies for this railroad.

I would just like to say before I leave that this is the most frustrating legal vacuum I have ever seen. When the States opted to not go with Amtrak Commuter Corp, they in fact went into a system where they own the railroads and where Federal law doesn't apply.

I think that your bill and mine are not forcing the unions to do anything that they haven't agreed to at the negotiating table, are leaving those issues that aren't agreed to to binding arbitration, which both have said at one time or another they would accept.

The White House's ridiculous argument that they would be intervening in State or local matters is just absolutely, totally crazy, because we are not intervening, we are simply saying "go to work"; 90,000 Americans that pay taxes are in trouble.

Senator D'AMATO. But again, in the final analysis, each of them will have—both the union and the rail system, the MTA—a representative, and if they stalemate in the selection of the third, who will virtually be the swing person who decides the resolution of the outstanding issues, that representative will be selected by the Governors of both States.

Mr. MCKINNEY. Absolutely.

Senator D'AMATO. Therefore, there will be in a very meaningful way, the opportunity for this panel to review costs implications, and other important issues, all those factors that come into play in this labor dispute.

I think it is unique. I think it is a manner in which we hopefully should be able, once the Congressmen in the district and once our State representatives understand the full nuances of this, to galvanize the kind of support which the White House says is necessary for them to loan support for passage of this bill so that we can end this strike.

Mr. MCKINNEY. This morning I had individuals at every single bus terminal, passing out the White House's phone number, and a concerned message that they please call. And I certainly hope that the White House phone switchboard is kept inundated, in fact, if not jammed, for the next 2 or 3 days.

Senator WEICKER. And tell me, Congressman McKinney, for my own benefit, what is the White House phone number?

Mr. McKINNEY. They don't ask me to call.

Senator WEICKER. Senator Dodd?

Senator DODD. First of all, let me, if I may, ask that my prepared statement be included in the record.

Senator WEICKER. It will be included in the record in its entirety.

Stewart, I would echo the remarks of Senator Weicker and Senator D'Amato. What I gather you are saying is that you would all prefer not to be sitting here; we would all prefer not to be sitting here. Ideally, this is a matter that ought to be resolved between management and labor in the normal negotiating process. This is an extraordinary measure we are taking by even drafting legislation and introducing it.

Let me just mention two concerns I have about our action. While I cosponsored this bill, I did so reluctantly. I am worried for two reasons. One is that this is going to send the wrong message to labor and management: that they don't have to do anything right now because Congress is going to do it. And let me tell you, and those that are sitting here, I am a cosponsor because I think we have got to say something. But if labor and management think that we are going to resolve their problem with a piece of legislation, they are kidding themselves.

My second concern in conjunction with that, is that the White House wouldn't even submit legislation. And I would like to know if we have any indication from the President. While you mention all the phone calls he has received. He has gotten a lot of phone calls on withholding of dividends and interest, too and I don't see any turn of opinion on that one.

I am concerned that despite some phone calls from our folks and folks in New York, that they are still going to say "no." Do we have an indication? If we don't, the legislative process is a long process anyway, and even if we are together on the two bills, getting them moving in the committee, and so forth. My concern is, again, that we are sending the wrong message. That management and labor will think that they really don't have to sit down with each other. That their friends in the Congress are going to take care of this for them.

Mr. McKINNEY. Chris, I would have to disagree on that point. I think in fact both parties have held so nearly and dearly to their rights to bargain—they say it is preeminent and required—that if, in fact, they in truth want to bargain together and in truth want to come to a solution, they had darn well better come to a solution and come to it very quickly under this threat, or we are going to do it for them. And I don't want to see the legislature of the United States of America impose a labor settlement. I don't think this bill does.

But, damn it all, if management and labor cannot get together when they are affecting the lives of 90,000 Americans, it is up to this body to do it. We are causing divorces, dislocations, job loss, economic loss.

You know, everyone talks about just the commuter. What about the poor guy who sells newspapers in the railroad stations? He doesn't make big money, and he is out of work.

And getting to your other point, Congressman Ratchford has done a fantastic job of talking to Congressman Florio of New

Jersey and the Congressman has assured Bill, and he will talk about it later, that if, in fact, we all get together, we will rush on that side.

You know, we could do this in 4 days, if we wanted to. My message would be that I hope you and I go home and I hope those guys sit down in New York and stop arguing about the table and where they are going to meet, and all that other rot. Let them meet in some damn railroad station surrounded by the 90,000 commuters, and then settle the argument.

I'm sorry, I get a little irrational. I have got 23,000 people who are suffering like hell.

Senator DODD. I hope they are listening to you. I don't disagree with you. My concern is that they are going to say, "Well, let Congress do it." We can give all the speeches about how we have got to settle it, but the point is if that is the way it is resolved, I think it is a bad way. And I think you would agree. It is a bad way of resolving it.

Mr. MCKINNEY. Well, if either Bill Beebe or Dick Ravitch turn around and say, "Let the U.S. Legislature do it," they had better start to question what is management and what is a union. To me it is that simple.

Senator WEICKER. That's it.

Senator DODD. That's it.

Senator WEICKER. Thank you very much.

[The prepared statement of Senator Dodd, follows:]

PREPARED STATEMENT OF SENATOR DODD

Senator DODD. Mr. Chairman, I know that we all consider this hearing to be a most unfortunate and extreme occurrence. Of all the legislation I have sponsored in my 8 years of service in the Congress, I probably have the greatest reservation about the proposal, introduced in the Senate yesterday, designed to seek a resolution of the commuter rail strike which has crippled the New York-Connecticut region for over the last 5 weeks.

Quite simply, we are here this afternoon because this strike has gone on too long without any end in sight. This is obviously not in the best interest of the economy of our region and the Nation. It does not benefit management or labor. And most importantly, there are 90,000 people whose lives have been seriously disrupted.

I am sure that we would all prefer that the parties to this action were in New York today attempting to resolve their differences through the collective-bargaining process. We are not going to settle these issues in this forum and I have doubts that they can be settled by congressional action. What I would like to see us work toward today is an understanding to get these trains running again immediately and agreement as to how the remaining issues will be resolved.

While the bill which was introduced in the Senate yesterday is carefully structured so as to do as little damage as possible to the nature of labor/management relations, I fear that it has two basic problems. Its very existence extends the hope that this strike will or should be settled through other than normal means. I am not sending that message by virtue of my cosponsorship of this bill.

Second, this legislation is by no means sure to either pass or receive the approval of the Executive. At a minimum, this bill will take time. And that means a longer strike and I fear a reluctance to negotiate or seek a mutually acceptable alternative way of resolving these differences.

Much will be said about the signals we are sending by this hearing. I want to be very clear as to my motives. I am not here to come down on one side or the other in this dispute. I want these trains running today, and I want to see a process in place for resolving the remaining issues. If the current impasse continues, even this Senator will work for the resolution represented in the pending legislation. In my opinion, we are all losers if this comes to pass both in the short term as it relates to this strike and with respect to the broader issues of labor/management relations in this Nation.

Mr. McKINNEY. I sounded a little bit like Lowell Weicker there for a while. [General laughter.]

Senator DODD. It happens when you come to the Senate. [General laughter.]

Mr. McKINNEY. The White House phone number is 456-1414.

Senator WEICKER. The committee has as its next witness the Governor of the State of Connecticut, Hon. William O'Neill, accompanied by Mr. William Burns, the chairman of the Connecticut Department of Transportation.

Governor, it's nice to have you here.

Governor O'NEILL. Nice to be here.

Senator WEICKER. Commissioner Burns, it's also a pleasure to have you here. I very much appreciate your interrupting your schedule to make these hearings, thus emphasizing the importance of the issue before us.

Please proceed in any way that is comfortable to you.

STATEMENT OF HON. WILLIAM O'NEILL, GOVERNOR, STATE OF CONNECTICUT, ACCOMPANIED BY WILLIAM BURNS, CHAIRMAN, CONNECTICUT DEPARTMENT OF TRANSPORTATION

Governor O'NEILL. Thank you very much, Senator.

First of all, I want to thank your committee for having us down here today, particularly yourself and Senator D'Amato, and Senator Dodd, for being in front of us this afternoon.

And indeed, I also want to thank the three of you for submitting legislation. In Connecticut approximately 23,000 of our people depend on the New Haven Rail Line or on the Metro-North system for their daily transportation to and from work and for other business in New York City and in Connecticut. Commuters along the New Haven Line from city to city.

These people have been greatly disadvantaged by the strike of the United Transportation Union against Metro-North. They have been forced to seek alternative methods of transportation or they have been forced to make arrangements to remain in New York during their work week, all at increased personal costs and with significant disruption to their personal and family lives.

As public officials, you and I share a common respect for the collective bargaining process. I have tried to maintain my respect for the process throughout the strike, even though I have taken a number of actions to try to bring about speedy solution to the dispute.

On March 17, when the strike was one and a half weeks old, and when negotiations had been suspended, I sent a message to the mediator, Arvid Anderson, and I asked him—I told him that I was very disturbed at the apparent lack of progress, and even more disturbed at the lack of negotiations. I pointed out that no dispute can be resolved if the opposing sides aren't at least talking to each other. And I urged that the talks be resumed immediately and that negotiations remain on the table until an agreement was reached and service restored.

I sent copies of my message to the chief negotiators for the union and the New York Metropolitan Transit Authority. Negotiations were, in fact, resumed. But they proved to be fruitless.

On March 29, I met with officials of MTA and Metro-North in my office, and I listened to their side of the dispute. And I repeated a call for a return to the bargaining table. I scheduled a similar meeting with William Beebe of the United Transportation Union, but the meeting was called off because of another resumption of contract talks.

Early in April, those talks broke down again, with the strike then 31 days old. I wrote to the President and I urged him to support congressional action that would mandate an immediate resumption of rail service, under terms of the President's own Emergency Board findings, with all unresolved issues to be submitted to binding arbitration.

Five days later I received a response from Transportation Secretary Elizabeth Dole. She rejected my request. However, in the last paragraph of her letter she said that if the strike persists and a consensus for Federal action develops amongst the Members of Congress from the region, the administration would carefully consider any responsible legislative proposal that is put forward.

Members of the committee, I respectfully submit that the time for that concensus is now. The bill before you offers a vehicle that can restore this essential commuter rail service to our people. It provides for a resumption of service once action is completed on the bill. All agreements that were reached by labor and management through April 11 would go into effect. Provisions concerning pay, rules, and working conditions on which no agreement had been reached by April 11 would be governed by the old Conrail system that was in effect immediately before the service was turned over to Metro-North on January 1 of this year. Any disputed provisions would then be submitted to binding arbitration.

In almost every respect I wholeheartedly support this proposed legislation. However, I would prefer that one change be made. On those issues which are still in dispute, rather than return to the old Conrail system, I recommend that the unresolved matters be governed by the findings of the Presidential Emergency Board.

In addition, I urge in the strongest possible terms that this legislation include language that will assure that this situation does not happen again. It makes no sense to me to give the States responsibility for the operation of the rail service, responsibility to pay for the service, and to enter into contracts with labor, but to keep labor under the umbrella of the National Railway Labor Act.

The Congress has given the States all of the responsibilities, but has withheld from the States the legal authority to keep the trains running. I believe that Congress must provide that applicable State laws will prevail in disputes like this.

With this change and with this addition, I am confident that essential commuter rail service can be restored quickly, and that the States which have primary responsibility for maintaining that service will have all the tools necessary to carry out that responsibility.

I have brought Bill Burns with me today, our Commissioner of Transportation, to answer any particular questions that you may have. It seems to me that we are at a point of impasse that should not exist. I am not happy with legislation that is before you either, but without some kind of legislation it also appears that nothing is going to take place. Without some kind of legislation, certainly, this can happen again and again and again, every time a contract ends and a new one is to begin. Someone has to have the authority, and it isn't here in Washington, and it isn't in Albany, and it isn't in Hartford. It's nowhere at the present time.

So I commend the three of you, and commend Congressman McKinney and Congressman Ratchford, for doing what you are doing here today. And I believe, as you, that Federal or State legislation shouldn't be imposed on negotiating parties. But if there is no room, if there is no movement, then 90,000 people, and 23,000 of them in Connecticut, have to be serviced. We are doing everything we can as a State to provide buses and provide other means of transportation. But it is not enough.

We are concerned, also, that some may find that riding the bus and finding van pooling and finding car pooling may be more attractive than riding the train. And we may find that this is counterproductive to ridership on the railroad when the strike is finished.

So, all in all, it is a bad situation. I look forward to working with you very closely to rectify it as quickly as possible.

Thank you very much for having me.

Senator WEICKER. Thank you very much, Governor.

Governor, as you know, late today, and just prior to this hearing, the union indicated its acceptance of the legislation that is the subject matter of this hearing. The difficulty is, and indeed there is no reason why the trains couldn't be running tomorrow at least from a personnel point of view. The problem with a substantial amendment such as you suggest is that then, in effect, we go back to bargaining. I am now referring to the Presidential Emergency Board which you would like to see convened, if I am not mistaken.

My question is, Is it all that important in light of the fact that the legislation gives to you and the Governor of New York the right to appoint the third man if you can't agree. If anything, in other words, it gives an edge to management. Again, I don't want to speak for the union, since they will have a chance to speak for themselves, but I gather, when they said they will accept the legislation before the committee, it means just that, the legislation before the committee.

So why, rather than get into a back and forth contest as to whether it ought to be the Governors or the parties appointing the third member, as opposed to a Presidential Emergency Board, why not accept the package so that we can get the trains running?

Governor O'NEILL. Senator, when I got on an airplane this morning at Hartford I had not heard from either side that labor or management had accepted this bill. So you are telling me something for the first time right now. It is new to me.

My original concern was that the President should have ended this strike, as he could have done. That not taking place, then the next step is what you are doing here today, in my opinion.

As far as my concerns, they are identical to yours and the 90,000 people. Get the trains running, and get people back on board those trains. If, in fact, both sides are acceptable of this package, then certainly the Governor of the State of Connecticut is not going to stand in the way. And if labor is willing to buy this package as is, so am I, Senator, and let's get this bill moving. Let's get it passed. Let's get those trains running, and let's get people back as they should be.

Senator WEICKER. It is nice, Governor, to have witnesses before a Senate committee who answer the question on point. I appreciate your answer.

Governor O'NEILL. Let me say this, Senator. I have been accused of a lot of things, but one of them isn't not being straightforward.

Senator WEICKER. Good answer; good answer.

Senator D'Amato?

Senator D'AMATO. Governor, I think Senator Weicker's last point bears repetition. I have been concerned about how we resolve this strike quickly and equitably, equitably for the workers and also for the taxpayers. Let me say that here in Washington, I, along with other Senators such as Senator Weicker and Senator Dodd, am in a constant battle with OMB regarding Federal assistance for mass transit. It is a constant battle, and fortunately, we have been able to retain a real Federal commitment to mass transit, particularly in the area of operating assistance.

But, the commuters bear the largest portion of the operating costs of these rail lines. These commuters cannot afford labor settlements which do not recognize productivity and other cost-saving factors.

The mechanism we provide in the legislation calling for binding arbitration will allow for the recognition of the costs involved in operating the lines. Each party will have the opportunity to choose an arbitrator. The third arbitrator on the panel will be chosen by the Governors of New York and Connecticut if Metro-North and the UTU cannot agree on a third party. With this mechanism in place we should be able to get the commuters back on those trains within 48 hours.

This seems a process to end this. I would be sorry if we lost this opportunity and looked for legislation that might be more comprehensive and dealt with other future labor problems. That would take an awfully long time to develop and to get passed. Because we are not going to get the kind of support nationwide or within the region if we begin to move in some of the other areas that seek more comprehensive treatment of this problem.

Governor O'NEILL. If I may respond, Senator, I am concurrent with what you are saying, particularly on the expense side. The State of Connecticut subsidizes $30 million a year to move people from New Haven, Conn., basically, to New York City. And that is not for any capital improvements, that is operating expenses each and every year. Thirty million dollars for that line.

I would like to see that reduced; certainly I would. But the fare-paying public doesn't want to pay any more, and that is understandable, too. But we do, as Governors, represent management, because we are the persons that are paying out the money. So we have to be concerned with our individual taxpayers in the State of Connecticut as well.

So we really sit as managers, even though we are not involved in direct negotiations, nor have we been, since the beginning. I am perfectly willing to accept what is being proposed here today if it gets the trains back. If it gets the people back moving. That is the whole key to this situation.

I am not going to sit here as Governor of the State of Connecticut and say I am against moving the trains. I am for moving the trains, as I have been from the beginning. I am sorry we had to come this far where we are today.

Senator D'AMATO. I am delighted that you are here today, Governor.

Senator WEICKER. Senator Dodd?

Senator DODD. I would just repeat that I am anxious to hear what the representatives from labor and management have to say. If they endorse the bill, the hell with the bill. If they endorse the whole thing, then why don't they just do it? If they are ready to buy what is in the package, and they are going to testify to that effect, then we have got ourselves the basis for an agreement, and I don't think we need to go any further. We can keep the bill kicking around to make sure they do it, but if they are willing to buy the formula, then I would say go ahead with it. And I think that is what you are saying.

Governor O'NEILL. I cannot speak for the State of New York.

Senator D'AMATO. That's right.

Senator DODD. Well, we have got one part of it.

Senator WEICKER. We've got the union and we've got the State of Connecticut. And I am sure we are going to hear from the State of New York.

Senator DODD. Then make a phone call.

Senator WEICKER. Thank you, Governor. It is good to have you down here in Washington. If there are no further questions, Governor, I know that you are trying to make a plane back to Connecticut. Thank you very much. And Commissioner, thank you very much.

Governor O'NEILL. Thank you, Senator.

Senator WEICKER. The next witness before the committee will be Congressman William Ratchford, Congressman from the Fifth District.

Bill, again, I know of your concern that this does touch upon your district. And thank you very much for taking the time out of your schedule to be here and testify.

STATEMENT OF HON. WILLIAM R. RATCHFORD, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. **Ratchford**. Mr. Chairman, and Senator Dodd, and Senator D'Amato, thank you. I would like to make my statement a part of the record, outline it briefly, and then respond to any questions.

Senator **Weicker**. It will be inserted.

Mr. **Ratchford**. There is no question that there is an immense impact on the State of Connecticut. The Governor has referred to 23,000 stranded commuters. Many of those people live in my district. I represent western Connecticut: Danbury, Bethel, Brookfield, Wilton, Weston, Redding, Ridgefield. It sounds like a train run, except the train isn't running.

And the fact of the matter is that that area always feels—and Senator Weicker, you know it because you lived in Greenwich for a long period of time, that no one cares about it. Hartford doesn't care about them, New York doesn't care about them, Washington doesn't care about them.

Talk to the commuters now, and they will tell you that absolutely no one in government cares about them. I had a town meeting in Wilton last Saturday. It is a good news/bad news story. Good news in that I had a good turnout. Bad news in the tale of woe the people portrayed for me as to what their lives were under these circumstances.

A student who commutes into New York from Wilton each and every day takes an average of 3 hours one way. That is 6 hours out of her life every day because of what is going on presently.

A businessman from that same area 1 week ago today, with weather like this, left New York early on a bus because he anticipated what weather would do to his travel back to Connecticut. He spent from 2 o'clock last Friday afternoon until 8:30 getting home. Bad weather, traffic tieups, plus a breakdown, and he got home at 8:30 Friday evening.

Realtors who turned out at this town meeting told me that they are beginning to get inquiries about what it would take to put their house on the market so they could move closer to New York. All of this affects lives. All of this affects the economy of the area.

I know that we have labor and management seated behind me and that there are legitimate issues that must still be resolved. And I am concerned for labor and for management.

But I am more concerned, today, for the public interest, which seems not to be the focus of attention, because this strike is now at the end of its 6th week.

I will say to you that legislation is not a perfect answer. But what is developed in your bill, what is developed in the bill offered by Congressman McKinney now has the backing of all six Connecticut House Members. It doesn't come easy: Four Democrats, and I am here speaking for them today, some are affected by it directly and others not affected at all in their districts. But all concerned enough to put it on the line for this piece of legislation. Two Republicans, both saying, "do something."

I think that is where we are at. I think that is where the public is. They don't care about labor; they don't care about management.

They don't care about Connecticut or New York, Senate or House. They want something to happen.

And I think the point that Senator Dodd makes is correct. To assume that because we are here today that out of it will come quick legislative action is an assumption that we cannot make. I, for one, don't feel that there will be quick action until we have the backing of the administration.

I took the time yesterday to talk to Secretary Dole. She knows I am a member of the Transportation Subcommittee of Appropriations, and is interested in my point of view as a Member of Congress, but especially interested in my point of view as a member of her subcommittee on the House side.

She said to me she hadn't closed the door in her letter to the Governor. I told her that door was barely ajar and we would like to see it open more.

I talked to Malcolm Baldrige, Secretary of Commerce, who happens to be from Connecticut, and reminded him of the immense economic impact reflected by Fairfield County and western Connecticut, in the overall economy of the State of Connecticut. And he, too, has not closed the door.

But to open that door legislatively you know and I know we are going to need a call from the White House. Rail legislation, historically, has not been something that has happened often. We have moved once in my 5 years in Congress, and that was a national freight strike last year. We will need White House backing to move this legislation.

I can say to you, Senator Weicker and Senator Dodd and Senator D'Amato, that Congressman Florio has promised me a quick hearing next week on this legislation and his backing to move it forward. But more than anything else, to labor and management behind me, get together under the terms of this proposed legislation. Close the door. Stay behind that closed door until you can walk out with an agreement.

Failing that, legislation will move. But I hope it moves more quickly than we have seen movement in this strike in the past—not 1 week, not 2 weeks, not 3 weeks, not 4, not 5. We are approaching 6 weeks of this strike. And what has been inflicted on the commuters of Connecticut and New York is cruel and unusual punishment. We ought to end it and end it now. And I hope that this hearing, the fact that it is taking place on a Friday in Washington will say to all parties involved, we are serious. Let's move forward.

Senator **Weicker**. Congressman, thank you very much for your observations.

Senator Dodd.

Senator **Dodd**. I want just to commend you, Bill. You have touched all the bases, with Secretary Baldrige and Secretary Dole as well, and you have done beautifully in trying to get some action.

I think you are right. Ultimately I think if nothing happens as a result of this meeting today then the administration is going to have to join in this bipartisan effort. We have got both Houses pretty much agreed, at least those who are directly involved, and it is a bipartisan agreement as well.

We are told, anyway, that labor agrees to the formula which has been put in the legislation. And that management may, as well. It seems to me we have got everybody on board except the administration at this point. And maybe it is also willing to give us support.

I think we might be able to resolve the legislation without having to go through that process. I think, again, that you have——

Mr. **Ratchford**. Senator Dodd, that would be important. Sitting here earlier with our Governor—and we served together in the Connecticut General Assembly, and Lowell has been there as well—we were looking at the names there at the table. And then Stew McKinney joined. And when you look at the names of East, Danton, Grassley, what is their interest in a strike involving commuters in New York and Connecticut? And to suggest, therefore, that we are going to move legislation quickly, even with our backing, is to suggest, I think, that the tooth fairy is out there.

I don't want a nightmare; I want a dream to become a reality in the form of the trains running, of people going back to work, and these issues resolved. The best way to resolve them is through labor and management. But failing that, legislation. But I don't think that legislation has much hope of moving without the backing of the White House.

Senator **Dodd**. Thank you. You've done a good job.

Senator **Weicker**. Thank you very much, Congressman.

[The prepared statement of Congressmen Ratchford follows:]

STATEMENT OF THE HONORABLE WILLIAM R. RATCHFORD
FIFTH DISTRICT, CONNECTICUT
SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES
APRIL 15, 1983

I APPRECIATE THE OPPORTUNITY TO TESTIFY BEFORE THE COMMITTEE AND WISH TO THANK THE CHAIRMAN FOR RESPONDING TO THE NEED FOR THIS HEARING IN SUCH A PROMPT FASHION.

TENS OF THOUSANDS OF CONNECTICUT AND NEW YORK COMMUTERS HAVE NOW ENDURED SIX WEEKS OF SCRAMBLING JUST TO GET TO WORK EVERY DAY. THEY'RE WELL PAST THE END OF THEIR ROPE, HAVING TO SPEND FOUR TO SIX HOURS EACH DAY ON THE ROAD BETWEEN HOME AND WORK.

THE FRUSTRATION THEY ARE FEELING HAS ONLY BEEN HEIGHTENED BY A LACK OF PROGRESS ON THE NEGOTIATIONS. SINCE THE STRIKE BEGAN IT HAS BEEN IMPOSSIBLE TO SEE ANY MOVEMENT TOWARD A SETTLEMENT, AND STALEMATE SEEMS TO BE THE ONLY PROGNOSIS FOR THE FUTURE.

IN THE MEANTIME, THE HUMAN AND SOCIAL COSTS OF THE METRO-NORTH STRIKE CONTINUE TO MOUNT. IN STRICTLY ECONOMIC TERMS, THE IMPACT OF THIS WALKOUT HAS BEEN

DEVASTATING. FOR THE COMMUTERS, IT HAS MEANT MORE OUT-OF-POCKET EXPENSES FOR TAKING THE BUS, DRIVING IN, OR STAYING AT A HOTEL. FOR MANY LOCAL BUSINESSES IN FAIRFIELD COUNTY, IT HAS MEANT A BIG DROPOFF IN SALES.

FOR THE BUSINESSES THAT EMPLOY THESE THOUSANDS OF COMMUTERS, IT CERTAINLY HAS MEANT IN MANY INSTANCES SHORTER WORKING HOURS AND LOWER PRODUCTIVITY. THAT IS NO FAULT OF THE WORKERS WHO COMMUTE. RATHER, THEY HAVE BECOME VICTIMS OF CIRCUMSTANCES BEYOND THEIR CONTROL.

IN A PERFECT WORLD, THE TWO SIDES WOULD CONTINUE TO MEET, REACH AN AGREEMENT, AND RESUME OPERATING THE TRAINS--ALL AT NO REAL COST TO EITHER THE COMMUTERS OR THE RAIL LINE.

IN REALITY, THOUGH, FURTHER STALEMATE THREATENS THE WELL-BEING OF BOTH THE REGION'S ECONOMY AND THE PEOPLE WHO LIVE THERE, AS WELL AS THE FUTURE OF THE METRO-NORTH RAIL LINE ITSELF.

THE COSTS ARE TOO GREAT AND THE PROSPECTS TOO BLEAK TO IGNORE THE URGENT NEED FOR PROMPT FEDERAL ACTION. I THINK

THE APPROACH EMBODIED IN THE LEGISLATION OFFERED BY CONGRESSMAN MCKINNEY IN THE HOUSE AND BACKED BY THE CONNECTICUT HOUSE DELEGATION AND, WITH A FEW CHANGES, THE BILL NOW PENDING BEFORE THIS COMMITTEE, IS A SENSIBLE ANSWER TO THE CURRENT IMPASSE. IT IS ALSO A MUCH-NEEDED ONE.

THE TWO SIDES ARE STILL SO FAR APART ON JUST A FEW REMAINING ISSUES THAT BINDING ARBITRATION OFFERS THE ONLY PRACTICAL MEANS OF RESOLVING THE DISPUTE. THESE BILLS DON'T SEEK TO IMPOSE THE TERMS OF A SETTLEMENT; RATHER, THEY JUST PROVIDE A SURE MECHANISM TO GET THE TRAINS ROLLING AGAIN AND TO SETTLE THE ISSUES ONE WAY OR ANOTHER.

HAVING MET WITH ABOUT 50 COMMUTERS FROM THE WILTON-REDDING-WESTON AREA LAST WEEKEND, I KNOW THROUGH THEM THAT THOUSANDS OF PEOPLE ARE PAYING TOO HIGH A PRICE TO ALLOW THE WALKOUT TO CONTINUE INDEFINITELY. I URGE ALL MEMBERS OF CONGRESS--DEMOCRAT AND REPUBLICAN ALIKE--AS WELL AS THOSE IN THE WHITE HOUSE TO ADOPT QUICKLY THIS MUCH-NEEDED LEGISLATION.

Congressman

Bill Ratchford

Fifth District, Connecticut • 432 Cannon House Office Building, Washington, D.C. 20515 • (202) 225-3822

FOR IMMEDIATE RELEASE:
Friday, April 15, 1 p.m.

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RATCHFORD URGES SENATE SUPPORT OF COMMUTER RAIL LEGISLATION

WASHINGTON---Claiming that "the costs are too great and the prospects too bleak to ignore the need for federal action," U.S. Rep. William Ratchford (D-Conn.) today urged the Senate Labor and Human Resources Committee to adopt legislation to "get the Metro-North trains rolling again."

Ratchford stressed that proposals before the House and Senate do not seek to impose the terms of a settlement of the strike that has stranded commuters since March 7. "Binding arbitration offers the only practical means of resolving the dispute," Ratchford said.

"Further stalemate threatens the well-being of both the region's economy and the people who live there, as well as the future of the Metro-North line itself," Ratchford told the Senate committee.

Many Western Connecticut commuters have been forced to spend up to three hours traveling to and from work, according to Ratchford.

"For the businesses that employ these thousands of commuters, it certainly has meant in many instances shorter working hours and lower productivity. That is no fault of the workers who commute," Ratchford said. "Rather, they have become victims of circumstances beyond their control."

Senator **Weicker**. The next witness to appear before the committee will be Mr. Richard Ravitch, chairman of the New York Metropolitan Authority.

STATEMENT OF RICHARD RAVITCH, CHAIRMAN, METROPOLITAN TRANSPORTATION AUTHORITY, NEW YORK

Senator **Weicker**. Mr. Ravitch, welcome to the committee. Please proceed in any way that you deem fit. If you would introduce those who accompany you to the table, I would appreciate it.

Mr. **Ravitch**. I would be delighted.

Thank you, Senator. I appreciate the opportunity to testify today. To my left is Mr. Lewis Kadin, who is representing the MTA in this matter, and to my right is Peter Stangl, who is the president of Metro-North Commuter Railroad, which has been struck by the United States Transportation Union.

My name is Richard Ravitch, and I am chairman of the MTA and chief executive officer of Metro-North.

Appreciating the directness of your questions, I would like to start not with my testimony but with a direct answer to the question that you addressed to Governor O'Neill, and tell you that from the very beginning of these negotiations I have urged the union to agree to binding arbitration.

I met initially last summer with the leaders of this union to set the process for negotiations that had to result, by reason of Federal law, in labor contracts by December 31. I asked the unions to consider various methods of binding arbitration because I was convinced that the rules and procedures set years ago for freight railroads had no applicability to the operation of commuter lines, and needed changes. These changes were difficult for the unions and its members to accept, and I therefore urged that we agree on a binding arbitration mechanism.

My position has been unchanged on that since the negotiations have begun. Until I heard you, Senator, just a few minutes ago, indicate that the unions were prepared to accept binding arbitration, I had not the slightest indication of anything but the contrary. They have refused consistently for over 8 months now to consider binding arbitration.

And I restate the position that I have stated publicly and that I have stated to the unions: We would welcome the opportunity for the trains to resume and for the outstanding issues to be submitted to binding arbitration.

Senator **Weicker**. I don't mean to interrupt you, but just so I keep this in context, are you indicating the same position as Governor O'Neill insofar as this legislative proposal is concerned?

Mr. **Ravitch**. Well, I would like to comment on that differently, if I may, Senator.

Senator **Weicker**. Fine. I'm sorry.

Mr. **Ravitch**. I am just indicating to you that we are prepared to agree on binding arbitration. And if, in fact, the union's position is as you indicated it was, there is no reason why we can't agree upon an arbitration provision by the weekend and have the trains running on Monday morning.

On December 31, when we reached essential agreement with 16 of the 17 unions, and had reached agreement on most of the issues with UTU, they agreed to operate, to work, during the subsequent period of time under the rules as set forth in the recommendations of the Presidential Emergency Board. And therefore it would of course be our position, since the union was willing to work under those arrangements from January 1 until the day that they went out on strike, that those are the rules applicable during the period that the arbitration is taking place.

That would, of course, be consistent with the position that they took on December 31 and the way that they actually acted for the 8 or 9 weeks between that date and the date that they began the strike.

With your permission Senator, having already answered your basic question I would like to take a few minutes to tell you about the history of this dispute and the reasons why we have taken the position that we have.

You have afforded us, MTA, an unusual opportunity, which we have long sought, to present to the leading members of the New York and Connecticut delegations our views on the basic issues here. The specific collective bargaining issues are less significant than the fundamental questions about the role of the Federal Government in relation to the operation of these commuter lines.

You said that when the Secretary of Transportation first requested of me that we consider taking over the operation of the Harlem, Hudson, and New Haven lines, I indicated to the Secretary that we would consider that favorably. But one of the most critical things from our point of view was the opportunity, under the takeover, to have our collective bargaining governed by New York State law.

Unfortunately, the legislation that emerged, known as the Northeast Rail Services Act, contained no such provision. The farepayers and taxpayers of two States were left in the anachronistic position of being responsible for the costs of operating these railroads, and management was left without the ability to deal with our represented employees under the laws made by the representatives of those taxpayers and farepayers in our respective States.

The administration has, from the very beginning, cited as its reason for objecting to the Federal Government paying for any of the operating costs of public transportation the fact that States have profligate labor contracts, and for the Federal Government to provide operating subsidies would be to encourage waste and inefficiency.

Yet in our a case the positions we took were intended to reduce the cost of operating this railroad, to eliminate what we believed, in our best judgment, to be the redundant personnnel—to get the costs down so as to minimize the burden on the taxpayers of our respective States of running this railroad.

Just the other day the Secretary was quoted in the Washington Post as saying that by providing operating assistance the Federal Government is distorting—and I am quoting from a quote of hers in the Washington Post dated April 10:

> The Federal Government is distorting the collective bargaining process by providing money that can be used for busdrivers and mechanics, and it is just not beneficent. It has produced uneconomic decisions.

I am not here to argue the operating assistance question. I am here to point out that the administration's position of being concerned about promoting efficiency in the operations of these railroads is inconsistent with the passivity that they have taken on the issue of jurisdiction of Federal law in this case.

I should also add, Senator, that the administration has proposed a bill to cure the financial difficulties of the railroad retirement system. I understand that is a serious public problem which the Congress should address. But under that proposed legislation they would impose upon Metro-North and upon the Long Island Railroad (another commuter railroad which we operate) a cost that would result in a 10 percent fare increase to the riders of these railroad lines. The riders of Metro-North—Connecticut residents and New York residents—would be paying 10 percent more in fares in order to subsidize a retirement system that benefits the profit-making private railroads of this country.

So the administration believes that the Federal Government has a right to get involved in the commuter rails in that regard, and yet it has refused either to take the position that we should be exempt from the railway labor laws so local laws can be applied, or to take the position that Congress should impose the recommendations of a board consisting of three distinguished panel members appointed by the President of the United States.

Had the administration taken either course of action when first requested to, when the strike just began, the public would not have been subjected to the inconvenience that they have been during this entire period of time.

I would like, if I may, Senator, to run through the background on these disputes very briefly.

The walkout by the United Transportation Union, which represents about 622 out of a total of nearly 5,000 employees, is the last and most calamitous event in a long and complicated process by which Metro-North, a newly created subsidiary of the MTA, has taken over the responsibility for operating the Harlem, Hudson and New Haven lines.

This strike has proved disastrous for everyone touched by it, not the least of whom are the more than 4,000 Metro-North employees now on the street. What may not be so clear is that the difficult negotiating process, which proceeded the strike, has been largely successful. As a result we have reached basic agreement with the other 16 organizations on the property.

The time provided under the Northeast Rail Services Act for the takeover of these ailing commuter lines was relatively short. Yet, in a matter of several months the MTA, with the close collaboration of the representatives of the State of Connecticut, has come close to accomplishing most of the objectives established when we agreed to take over these lines and control them directly.

We drafted and executed implementing agreements governing the terms of our takeover with all 17 organizations. When that task was complete we proceeded to negotiate 16 collective bargaining agreements. These agreements incorporated changes in outdated work rules which were long overdue. At the same time, they gave employees an attractive wage and benefits package for the 3-year period of the agreements and an economic package significantly more favorable than those offered by other authorities that took over commuter operations from Conrail.

With the UTU we have agreed in principle to a wage package that provides average salaries of $37,000 to $38,000 in 1983, with increases of 6 and 7 percent in 1984 and 1985 respectively.

On January 1, 1983, the day the takeover was effective, the Metro-North trains were running. Yet, after all of this, a single issue, the crew consist issue, with a single union, the UTU, has managed to paralyze an entire system.

Why is this issue so important? Essentially what Metro-North is seeking is to be able to operate the commuter trains with the number of conductors and trainmen it deems necessary to run a safe and efficient service. In the past, Conrail collective-bargaining agreements mandated rigid minimum crew sizes having absolutely no relationship whatsoever to the number of passengers. Nor did they relate to the functions performed by train crews, such as running the trains and collecting revenues.

Under Conrail the sole factor determining crew consist was the length of the train; the number of crew members was fixed.

The UTU is adamantly opposed to any agreement that would allow Metro-North to determine crew size in accordance with service needs. The organization's inflexibility was demonstrated to us a few weeks ago by its summary dismissal of our proposal giving an unqualified job guarantee to the 622 train service employees working on the property on March 6, the day of the walkout.

And I would like to say that during the last 48 hours I have received numerous phone calls from your colleagues from the other body, advising me that the UTU has informed them that we never put that in writing. That is categorically untrue. We have submitted a proposed contract to them containing unequivocally clear language that says all 622 people would be guaranteed employment and would be assured of 5 days' pay per week.

If this distinguished committee is under any illusion that that is not true, we would be delighted to submit for the record copies of the contracts, which demonstrate that the assertions made by the UTU are untrue.

This offer that we made was made the night the strike began. It was an expensive offer to us in the short term because we clearly had the ability, as we saw it, to run this operation immediately with several hundred fewer men than were presently employed. But we made that offer at that time for two basic reasons. One, we had received some indirect communications that an offer to get down to the levels that we ultimately sought by attrition would be acceptable to the union. Obviously that was wrong information. But we did it to avoid the strike.

We also did it because consistent with what enlightened management does generally, we took into account the human problems of putting men out on the street when technological change and improvements provide opportunities to run an operation more economically and more efficiently.

So I thought we did the right thing. I have been criticized by some of the members of my board and by some of the members of the public for making that offer. But I made it and I stand by it because I think it was the right thing to do.

But I cannot understand why the UTU has consistently refused to accept that proposal, arguing to its members that they are denied some benefit that they would get under the UTU proposals.

I respectfully submit that there is not one single benefit that a member of the UTU—that any of these 622 gentlemen and ladies—would receive under the union proposal that they don't receive under our proposal. The wages would be the same, benefits would be the same, pensions would be the same. The UTU is therefore clearly not bargaining for the benefits of those 622 men. They are bargaining for a generation of yet-unborn conductors, and they are bargaining for the size of the bargaining unit.

Now, I don't deny the union the right to do that, but as I am sure you understand, Senator, we have an enormous fiduciary obligation to run these lines as efficiently as possible. And if we have accorded to these 622 people a guarantee of jobs, a contractual promise that none of them will be separated or in any way furloughed from this railroad involuntarily, I don't see why this strike has been permitted to continue. It is clearly not in the public interest and clearly not in the interest of the commuters.

I should comment that we not only know we can run the trains very effectively with far fewer conductors, but we just took over the operation of this railroad on January 1 and are looking to ways of reducing costs even more in the future.

We are looking, and indeed have been encouraged, by the Department of Transportation, by this administration, to look very hard at the question of automatic fare collection. Why? Because that provides an opportunity for more efficiency and less cost.

And our offer of job guarantees, similar to what a lot of other industries do when technological change is coming, provides a mechanism so that over a period of time people who are presently employed will not be economically hurt, but gives management, in the long run, the ability and the right to run a system more efficiently for the benefit of the public.

I have a written statement which I will submit, and it is probably unnecessary to go into more detail on the history.

Senator WEICKER. Your statement, in its entirety, will be included in the record, at this point.

[The prepared statement of Mr. Ravitch follows.]

TESTIMONY OF RICHARD RAVITCH

CHAIRMAN, METROPOLITAN
TRANSPORTATION AUTHORITY

Before the Senate Labor Committee
April 15, 1983

I am here today to urge the Congress and the Administration to take a leadership role in efforts to resolve a crippling labor dispute in the States of New York and Connecticut. As the Governor of the State of New York has made abundantly clear, you can do so by imposing the terms of the Presidential Emergency Board recommendations, by providing for the application of state labor laws, or by creating a mechanism in the Railway Labor Act, where none currently exists, to resolve disputes of this nature.

The Metro-North strike arose for one reason only: the unwillingness of the United Transportation Union to support the primary objective of the MTA -- to operate a more efficient, economically-viable public transportation system in the New York suburban counties and Connecticut. Every one of the other sixteen organizations representing Metro-North employees has recognized this legitimate objective, and has cooperated with us in negotiating agreements which will help to achieve it.

The Federal government has strongly encouraged state and local authorities to assume responsibility for providing economical commuter services, and has long argued that it should not have to subsidize local railroads which are characterized by excessive labor costs and unreasonable work rules. The unreasonable crew consist standards which are at the heart of this labor dispute -- contractual quotas setting the number of conductors on each train -- are typical of the rules which the Federal government has so strongly reacted against. Yet the UTU has refused to allow the MTA and the taxpayers of New York and Connecticut to obtain relief from the heavy economic burden and wasteful inefficiency fostered by these quotas.

Moreover, in spite of the Federal government's insistence that we operate our own commuter lines, we have been forced to operate under Federal rather than state labor laws. The strike which has resulted has severely disrupted the daily lives of 90,000 commuters. It has had an equally devastating effect on businesses in the towns and villages where the Metro-North stations are located. Under state law, this strike by public employees would have been illegal. Now we are urging the Federal government to intervene by allowing us to resolve this dispute under our own state laws or by otherwise providing a permanent mechanism for dispute resolution on state-operated commuter railroads.

Now, let me address the background and specifics of the present dispute.

This walk-out by the United Transportation Union, which represents approximately 600 out of a total of nearly 5,000 employees, is the last and most calamitous event in a long and complicated process by which Metro-North, a newly created subsidiary of the MTA, has taken over responsibility for operating the Hudson, Harlem and New Haven lines.

This strike has proved disastrous for everyone touched by it -- not least of whom are the more than 4,000 Metro-North employees forced out on the street because of it. What may not be so clear is that the difficult negotiating process which preceded the strike has been largely successful, with the result that we have reached agreement with the other sixteen organizations on the property.

The time provided under the Northeast Rail Service Act for our takeover of these ailing commuter lines was relatively short. Yet in a matter of several months, the MTA, through Metro-North, has come close to accomplishing most of the objectives established when we agreed to take over these lines and control them directly. We have drafted and executed implementing agreements with all seventeen organizations, which governed the terms of our takeover; when that task was complete, we proceeded to negotiate sixteen collective bargaining agreements. These agreements incorporate changes in outdated work rules which were long overdue. At the same time, they give employees an attractive wage and benefits package for the three-year period of the agreements, an economic package that is significantly more favorable than those offered by the other authorities which took over commuter operations from Conrail. With the UTU, we have agreed in principle to a wage package which provides average salaries of $37,000 to $38,000 in 1983, with increases of 6% and 7% in 1984 and 1985, respectively. On January 1, 1983, the day the takeover was effective, the Metro-North trains were running. Yet after all this, a single issue -- crew consist -- with a single union, the UTU, has managed to paralyze an entire system.

Why is this issue so important? Essentially, what Metro-North is seeking is to be able to operate the commuter trains with the number of conductors and trainmen it deems necessary to run a safe and efficient service. In the past, Conrail collective bargaining agreements mandated rigid minimum crew sizes which had absolutely no relationship whatsoever to the number of passengers. Nor did they relate to the functions performed by train crews, such as running the trains and collecting revenues. Under Conrail, the sole factor which determined "crew consist" was the length of the train, and the number of crew members required was fixed.

The UTU is adamantly opposed to any agreement which would allow Metro-North to determine crew size in accordance with service needs. The organization's inflexibility was demonstrated to us a few weeks ago by its summary dismissal of our latest compromise proposal, in which we gave an unqualified job guarantee to the 622 train service employees working on the property on March 6th the day of the walk-out. Under this proposal, no present Metro-North conductor or trainman would lose his job as a consequence of the reform of outdated crew consist rules. Our compromise offer is, in fact, a more generous proposal than we have made to any other organization throughout the course of these negotiations. This lifetime job guarantee, which has no precedent in any of the other sixteen sets of negotiations, was aimed directly at alleviating the concern of conductors and trainmen that their jobs were in jeopardy - and yet, it was rejected out-of-hand by the UTU.

This compromise offer is an expensive alternative for us. It does not deal with the immediate problem of costly overstaffing of train crews. Nonetheless, it would ultimately permit us to achieve our objective of flexibility in crew size, while at the same time providing lifetime job security to our current employees. We made this offer because we wanted an end to the strike, a strike that has caused so much distress to so many people.

We also made this offer in recognition of the need to avoid undue injury to individual conductors and trainmen affected by changing technology on the commuter lines. If our only goal had been short-term budget savings, we could have agreed to continue unjustifiable quotas for train crews and immediately furloughed one-hundred-and-fifty UTU employees. The Union itself proposed this. The Union's greatest concern appears to be not the current Metro-North work force, but the number of future UTU members. We are appalled that the Union should approach collective bargaining in a way which relegates its current membership -- our employees -- to a position of secondary importance.

They are not of secondary importance to us, however. In addition to job security, we have repeatedly offered to review crew assignments with our UTU employees, and to establish guidelines under which any conductor or trainman would be able to arbitrate a claim that a particular work assignment threatened his health or safety. These offers, too, were rejected by the UTU.

Almost two years ago, a Senate Subcommittee hearing was held concerning the Northeast Rail Service Act of 1981. That Act required Conrail to get out of the commuter business, which it had operated in the Metro-North region for six years under subsidies from the MTA and the State of Connecticut. The MTA was offered the option of either continuing to subsidize the commuter operations under the control of a Federal agency or of assuming direct control of the commuter lines. We chose to assume direct control of operations because we wanted the opportunity to increase productivity and improve service. Moreover, unlike Conrail, which was primarily concerned with its freight services and negotiated its collective bargaining agreements accordingly, Metro-North could focus completely on improving and revitalizing the commuter system. Its only allegiance was to the commuters and taxpayers of New York and Connecticut.

When the question arose during those hearings as to whether the Metro-North region employees should be governed by New York's Taylor Law or the Federal Railway Labor Act, the MTA's position was clear. Our view then, as it is now, was that the commuters and taxpayers have a right to see that the labor disputes of their commuter rail system are governed by the Taylor Law, the law which their own legislators in Albany have passed.

The unions did not agree and it was their view which prevailed. The Taylor Law prohibits strikes by public employees. Our prediction during those hearings in June, 1981 was that if the system could not be operated by a state agency under the state's own labor laws - and I quote myself, if I may - then "we will be back here next year again seeking relief and the issue will not go away."

Two years later, the MTA, as a state agency, still finds it imperative that we be permitted to deal with our labor relations under our own laws enacted by our own representatives. Last week, when Governor Cuomo, in an effort to achieve a fair and timely solution, requested that President Reagan intercede in the strike by the UTU, the President's response, by way of a letter from Transportation Secretary Elizabeth Dole, was that "labor disputes on local transit systems should be resolved locally." Regrettably, she has not yet supported our request to bring these negotiations under the rules of local labor law.

Although we did not succeed in our original efforts to obtain jurisdiction of the Taylor Law as a condition of our takeover, we did establish two conditions which would have to be satisfied before we would assume control of the commuter lines: first, that the Federal government provide sufficient funding to cover the costs of the transfer of service responsibilities from Conrail; and second, that Metro-North have a free hand in defining and achieving collective bargaining goals with the seventeen labor organizations.

The latter goal was critical. In preparation for the possible transition, Metro-North analyzed the existing Conrail collective bargaining agreements with the seventeen unions and found a maze of archaic work rules and pay practices which had developed in the context of long-haul freight railroads. Workers were being paid for time when they were not working. Management was handicapped in efforts to achieve more flexible and efficient operations.

The crew consist reform is not unlike more than a dozen basic work rule changes which we have sought and obtained in our labor negotiations, changes which will make an enormous difference in the efficiency and economy of these commuter rail operations for years to come.

With the non-operating employees, such as shopcraft workers and clerks, there are new provisons in such areas as contracting-out, overtime payments, bidding for jobs and incidental work.

Metro-North's goal with the operating employees -- the engineers, represented by the Brotherhood of Locomotive Engineers, and the conductors and trainmen, represented by the UTU -- was to establish a fair but rational pay system, replacing a morass of abusive freight-oriented practices. Those practices rewarded employees not on the basis of time worked but on the basis of their ability to "work the system." After years of draining the taxpayers and fostering inequities among employees, these old rules have been abolished. Except for the remaining dispute with the UTU, Metro-North's goals with these groups have been achieved.

That sole remaining dispute, however, cannot now be overlooked. After much study, Metro-North's management concluded that the crew consist issue is perhaps the most significant efficiency issue posed during any of the seventeen sets of contract negotiations which have taken place over the last year. Flexibility in the assignment of train crews is critical to Metro-North's entire operating plan and not just its relations with the UTU. As operating practices change, and technological innovations are introduced, the size of train crews needed for efficient and safe operation will change. In the future, Metro-North may run short trains on some runs which need only a conductor. It may run long express trains requiring only one or two train service employees. It may determine that the size of train crews should not be constant over a single trip - an approach which is being used on the LIRR, where inflexible crew consist rules have long since been abolished. Metro-North may also institute a system of automated fare collection -- indeed the Federal government has forcefully encouraged us to do so -- which could substantially reduce our need for on-board personnel. A crew consist agreement based solely on train length would prevent Metro-North from economically implementing any of these innovations.

After months of negotiating, the UTU still will not accede to Metro-North's legitimate demand that it determine crew size in accordance with the needs of its service. Negotiations continued around-the-clock last weekend without a modicum of flexibility from the UTU. In effect, this stalemate leads us back to where we began two years ago, with a plea to the Federal government to place these negotiations under the Taylor Law, which is the only reasonable and appropriate vehicle for resolving them. If the Federal government wants the MTA, a state agency, to operate these commuter lines with state support, and with direct accountability to the people who use and pay for them, then we must be allowed to conduct our labor relations under our own laws enacted by our own representatives.

I have reviewed the Bill introduced in the Senate yesterday by Senator Weicker and Senator D'Amato, and I would like to make the following comments about it:

First, legislation should be adopted not on a one-shot basis, but in order to prevent future labor disputes on state-operated railroads from disrupting the lives of hundreds of thousands of commuters. The Long Island Railroad, which is also a subsidiary of the MTA, is under the threat of a strike this summer that could have an even more devastating economic impact than the Metro-North walk-out, bringing distress and inconvenience to even greater numbers of people. Congress should not have to intervene each time there is a crippling strike.

Second, the MTA has always supported the concept of binding arbitration to prevent the interruption of service on this commuter system. The first time we met with the unions representing Metro-North employees last year, we offered to submit the dispute to binding arbitration. We have repeatedly made the same offer to the LIRR unions. The UTU has consistently rejected this proposal.

Third, the Bill provides that, with respect to open issues, the Conrail contract applies until the arbitration panel has issued its decision. Yet Congress previously decided in the Northeast Rail Service Act that it would not extend the Conrail contracts beyond December 31, 1982. In December, 1982, the Presidential Emergency Board issued recommendations on all the issues in dispute. The Bill should be amended to apply the recommendations of the Presidential Emergency Board during the period pending the arbitrators' decision.

Finally, we believe that the eighty-five days provided under this Bill for the arbitration procedure is unnecessarily long. Forty-five days, or more than half of that time, is provided simply for the selection of an arbitration panel. There is no reason the arbitrators cannot be selected according to the procedures under this Bill within five days after enactment.

Senator **Weicker**. Go ahead.

Mr. **Ravitch**. Thank you, Senator.

I would just like to conclude by making a few observations about the proposed legislation.

First, as I have clearly indicated, it is the very strong preference of the MTA and of the Governor of the State of New York that a permanent legislative solution be found to avoid this kind of situation coming up again in the future.

If the unions have in fact, as you reported, agreed to submit these issues to binding arbitration, as I indicated that is an acceptance of the position long held by MTA, and we can do that consensually very quickly. But I would hope that the distinguished committee would consider, nonetheless, even if that is achieved, a long-range legislative solution.

This kind of dispute is going to erupt again, sure as shooting. I will give you an example. The general chairman of the UTU on the Long Island Railroad told me on the phone yesterday that if, as a result of collective bargaining or as a result of arbitration there was any crew consist provision in the Metro-North agreement, and there is currently no crew consist provision in the Long Island Railroad contracts, he advised me that that would be a strike issue for the Long Island Railroad. The period or the pendency of the Presidential Emergency Board, and thus the period in which strikes are illegal, expires on August 5th.

Now, obviously, if we go to arbitration, I don't know what the arbitrator in his wisdom will conclude is fair and reasonable under the circumstances. But I want the record to show that if there is any provision there requiring any crew consist, unless we agree to change what has been a practice and a contractual matter for 10 years on the Long Island Railroad, we will have a strike there.

I tell you that the issues that exist with other unions are essentially falling into the same category of work rules, et cetera. I don't want to burden this committee with a discussion of those specifics, but I would like to urge that this committee consider legislation to provide the mechanism for resolving disputes and avoiding public disruptions in the future.

Obviously our first choice is the exemption from the Railway Labor Act, as I have tried to indicate, which would permit the laws of the State, the laws made by the people who pay for this railroad, to govern our collective bargaining arrangement. Second, a law to impose the final recommendations of the Presidential Board under the provisions of the Railway Labor Act. Third, a proposition similar to the one contained in your legislation that would provide for binding arbitration.

Any of those solutions would be acceptable to us. The preferred one is the exemption.

I have a couple of specific comments on your proposed legislation, and they are essentially similar to what the Governor of Connecticut proposed.

If by reason of consent or agreement or by dint of passage of your legislation and its enactment into law, the trains are going to begin to operate, they should run not under the old Conrail rules, but under the way they were run from January 1 to March 6, under the terms of the Presidential Board recommendations.

Finally, we believe that the 85-day period provided for in this bill is unnecessarily long. Forty-five days, or more than half of the time, is provided simply for the selection of an arbitration panel. There is no reason that arbitrators can't be selected, according to these procedures, within 5 days of enactment.

Again, at the risk of being repetitious—forgive me—I want to urge that the mechanism, whether it is this one or another one that you think seriously of, be made a permanent part of the procedures to avoid disruptions, bearing in mind, as I hope, you always will, that the farepayers and the taxpayers of these states have an enormous and growing economic burden in keeping these commuter lines functioning.

Thank you very much.

Senator **Weicker**. Thank you very much, Mr. Ravitch. I appreciate your testimony.

Senator D'Amato?

Senator **D'Amato**. Thank you, Mr. Chairman. I wonder if you would bear with me just for one moment. I would like to confer with the chairman.

Thank you very much, Mr. Chairman. Dick, it is good to see you here.

Obviously you and I worked long and hard when the labor provision of the Northeast Rail Services Act was debated in 1981, and with respect to whether or not our commuter lines should be covered under the State labor law or Railway Labor Act.

As you know, we persisted until the point that the Secretary indicated to us that congressional action would be very doubtful with State law applying. That is unfortunate. But I shared your thinking. I went to the well, so to speak, for you and with you, because I think you are right.

In the final analysis, the legislation left something to be desired. But that is past us. Now we have a situation where 90,000 people are without commuter service. We have an intolerable strike. We have reached, in the words of the Governor, an impasse, whether or not in the legal sense or not, obviously both sides are intractable.

Given that situation, I find it refreshing, and I just want to go over for my own edification, the fact that you are saying that you will support this bill. You are indicating to this committee that you would be supportive of this legislative action?

Mr. **Ravitch**. As I indicated, with the exceptions noted, I would support it if it were a permanent mechanism. And that if——

Senator **D'Amato**. Well, we understand it—wait, please.

We understand it is not. My question is, it is not permanent legislation, but if we are going to look for permanent legislation, in my opinion, and I think in the opinion of most of my colleagues who are here today, Congressmen and Senators, then we are talking about a very, very protracted legislative process.

However, given where we are today in this bill, are you supportive of this bill?

Mr. **Ravitch**. Senator, let me say—and again, I am not avoiding your question—I would have no objection to the enactment of this bill right now. It is clearly preferable than to continue the impasse that presently exists.

As I have said, if the Senator's report was accurate that the unions are prepared to agree immediately to arbitration, that our counsel and their counsel could agree on the terms of an arbitration this afternoon and the trains could be running immediately—then the legislation wouldn't be necessary.

Senator D'AMATO. If I might interrupt you for a moment——

Mr. RAVITCH. If the union for any reason will not agree to submit these issues to binding arbitration, I would prefer to have this bill than no legislation at all.

Senator D'AMATO. OK.

I think one of your important concerns, and an important point, and a point that I have had to deal with in fighting for a continuation of operating assistance from Washington, is exactly the situation what you are saying here today. That management should have, over a period of time, the ability to deal with changing technological advances so that whereas, years ago, it would take a crew of a much larger size to operate a rail line today that is no longer necessary.

And I think that you did the right thing in saying that you guarantee that there will be no layoffs, but rather reduce by way of attrition. I think it is sensible, it is the right approach, and I think the public supports that. I think the legislative bodies of both the State and the Congress support that. It makes eminent good sense, because you will operate no railway if you say we are just going to fire people. So, for a variety of reasons you must have the ability to manage. The commuters and Federal and State governments cannot and will not tolerate mismanagement.

I want to be very clear. Congress is not mandating any costly settlement here. Congress is providing, by way of this legislation, if enacted, a vehicle which would, in its final analysis, resolve this dispute within the framework of a neutral panel. The third arbitrator might, in all likelihood, be selected by the Governors.

I think that this is the uniqueness of this bill, and obviously that third arbitrator, as all arbitrators, will be selected with care, a fair person, and also a person who will represent the philosophy and thinking that the public cannot pay inordinate sums and that there must be fair value for fair work. Is that not the kind of protection? What better protection can be offered in these labor negotiations?

Mr. RAVITCH. Senator, I certainly applaud the provision that the Governors have the opportunity to appoint an arbitrator in the event that the parties can't agree on a third arbitrator. But with all respect, I don't think that that is the equivalent of affording the States the opportunity to enact laws that govern the relationship with public employees.

Senator D'AMATO. Do we both agree on that, Mr. Ravitch? Let's have it understood, because I think it is important for the record that this Senator did fight with you and for you and with the administration to attempt to see to it that the State laws govern. But we lost that battle. I lost that battle. The administration would not go forward. There was strong opposition in the other body, the House of Representatives, to that.

Therefore we did not go forward. But we are here, it is another day, it is another time. There are 90,000 people who are looking to someone to break an impasse. I was ready to applaud you when you said "I initially wanted binding arbitration; I will accept it now."

Let me go one step further. If you are willing to accept binding arbitration at this point, using this as the guidelines and the basis, for negotiations, and if the union similarly responds then it would seem to me that if both parties make their selection, that if both parties are not going to agree on a third party, we call in the Governors while we proceed with this legislation.

Mr. RAVITCH. Senator, there is no disagreement between us on that at all.

Senator D'AMATO. You would be willing to do that?

Mr. RAVITCH. The record should show that you supported my efforts. I do not think that there was the fullest kind of consideration, certainly not by the administration and not by the Congress, of the provision.

If I may, I testified before the Senate Commerce Committee in 1981, and if you will permit me to quote myself or what I said in that testimony in dealing with this very issue of the exemption, I said we will be back here next year again seeking relief, and the issue will not go away.

So we are agreeing on the present, but I am urging you that the mechanism that you provide here, or any other mechanism that you might consider, be made a permanent part of the process so that in the future these commuters and other commuters on State-operated commuter lines will not be subject to the kind of abuse that they have been subject to for the last 6 weeks.

Senator D'AMATO. I would like to go back again so that we can finally review. You are stating that you would be willing, if the unions are willing, to sit down to binding arbitration, you appointing your person, they their person, even though this legislation isn't passed, and that, if necessary, the governors would then appoint their third representative. Now, if we can get the unions to agree to that you would be willing to do that so we can enter into that process?

Mr. RAVITCH. That has been my position for 8 months, Senator, that if the unions would be willing to do it I would be delighted to have them finally come around to our point of view.

Senator D'AMATO. Well, I think that is the kind of thing that Senator Dodd and Senator Weicker and myself are looking for.

Senator DODD. Could you yield on that?

Senator D'AMATO. Certainly.

Senator WEICKER. Senator Dodd?

Senator DODD. I think there is one other thing that could tighten this right down. That is, the question of what would be subjected to binding arbitration, which matters management and labor have already agreed to and would be the rules under which the employees would return to work. Those things that have not yet been agreed upon would be subjected to binding arbitration. You would not begin again a negotiating process.

Do you agree with that as well?

Mr. RAVITCH. Well, Senator, let me describe the facts. We in fact operated the railroad, as I said earlier, from January 1st until the strike under what we thought were agreements. During the last few weeks, and particularly last weekend when, at Governor Coumo's request, we met in around-the-clock negotiations all weekend, the union kept telling us that there was nothing agreed upon until the crew consist provision was agreed upon, and they were not bound by any prior agreements.

They provided us last weekend with a list of close to 20 issues which they consider to be open.

But I think if in fact the unions are prepared to agree to arbitration, the respective counsels could draw up a list of issues very, very quickly. And I would be perfectly willing to—as I have said—operate the railroad on the same basis that it was operated from January 1st until the strike.

Senator Dodd. The only point I would make is, don't run off. We are going to have Mr. Beebe, I believe, up here, and I would like you to stay around. I hope you don't have a plane to catch going right back. We want to hear what he has to say from labor's side, and if he is willing to make the same kinds of statements we have heard, it would be nice if you were here in the room and we could have that clear understanding between both sides, and maybe proceed immediately with this and actually have the trains back running within 48 hours.

So why don't you stay here. Can you do that?

Mr. Ravitch. Yes.

Senator Weicker. Thank you very much, Senator Dodd.

Your testimony, your review of the history, your expressing your reservations, your bringing your foresight to the legislation that is here is all important. This is a forum. To whatever extent it can assist in the straightening out of views between the two parties, fine. But we are not here to pass judgment either on the MTA or on the union. And I would probably agree with you in light of this experience that obviously some sort of long-term legislation is called for. But I don't think we are going to resolve that issue here today, or, indeed, in the weeks ahead.

I think what is important is that this impass be resolved. I can assure you that not only in chairing these hearings, but in being responsible for the legislation on the Senate side—and I know that Congressman McKinney has already indicated the same on the House side, and Representative Ratchford and Senators D'Amato and Dodd—the legislation will proceed. The legislation will proceed. But long before we reach the end of the legislative trail, in view of some of the attitudes that have been expressed here—there is no reason why we should have to wait until the end of the train to get this matter resolved.

So I can assure you—and I want to make this point clear—that I have absolutely no pride of authorship. Neither does McKinney or D'Amato or Dodd or anybody. So far as I am concerned, if it is a Ravitch/Beebe solution headlined in New York, fine that couldn't be better. I just wanted to assure you of our good will in this matter and that we are not in any way trying to force anybody's hand.

Mr. Ravitch. Thank you, Senator Weicker.

Senator Weicker. I would appreciate it, Mr. Ravitch, if you would stay in the room at this time——

Senator **Dodd**. Just so we can break your arm a little bit later. [General laughter.]

Senator **Weicker** [continuing]. As we call the other witnesses to the table. Thank you very much.

The committee will now hear from Mr. William Beebe, general chairman of the United Transportation Union; Mr. Richard Frear, general chairman of the United Transportation Union; Dr. Tom Woodruff, professor at Cornell University; and Mr. Theodore Kheel, attorney-at-Law of Battle, Fowler, Jaffin & Kheel; of New York.

Gentlemen, You may proceed in any way that you deem fit.

STATEMENT OF THEODORE W. KHEEL, ATTORNEY-AT-LAW, BATTLE, FOWLER, JAFFIN & KHEEL; ACCOMPANIED BY WILLIAM A. BEEBE, GENERAL CHAIRMAN, UNITED TRANSPORTATION UNION; RICHARD FREAR, GENERAL CHAIRMAN, UNITED TRANSPORTATION UNION; AND DR. TOM WOODRUFF, PROFESSOR, CORNELL UNIVERSITY

Mr. **Kheel**. Mr. Chairman, I would like to make a brief statement

Senator **Weicker**. Would you identify yourself for the benefit of the reporter as you speak?

Mr. **Kheel**. My name is Kheel, Theodore W. Kheel. I am a mediator and an arbitrator of labor disputes, and I have been for some 40 years. Two days ago I was asked by the union if I would assist in the capacity of adviser to the union, not as representative. And I agreed yesterday to serve in that capacity.

I do not speak for the union. Mr. Woodruff, to whom I will turn over the microphone in just a minute, and Mr. Beebe, of course, and Mr. Frear, speak for the union.

I would like to say, gentlemen, that I have read the bill you proposed this morning for the first time, and in my opinion, and I think I can speak on the basis of considerable experience, it is fair and reasonable, and very constructive in the circumstances.

It can and should serve to bring this strike to a swift end.

I have also advised the union as their advisor that in my opinion the union should support the legislation if the route has to be that the legislation must be enacted, or to agree to precisely the terms of the legislation with the Metropolitan Transportation Authority, which would obviously save considerable time.

I have been advised by the union, and you will hear from Mr. Beebe and Mr. Frear on this, that they were told by their general counsel, Mr. Hart, that under the constitution of the union it was not possible for them to commit the union without the vote of the members of the committee. And they have said that they will be able to poll the committee by noon tomorrow at the latest, and report back to you at that time whether or not the committee has accepted the legislation as the basis for concluding this dispute in accordance with my recommendations and in accordance with the terms of the legislation.

I think the key to the solution of this dispute through the legislation is your decision and your wisdom to confine the arbitration to the open issues. Mr. Ravitch said that arbitration had been proposed at the very outset and that the union had objected. I would say that I would endorse the union's objection to arbitration on all open issues. It is a mare's nest. There are hundreds of issues. And once you get into that type of a proceeding it gets bogged down, it becomes more of a legal proceeding than anything related to collective bargaining.

Your legislation is very simple. It can provide the basis for a stipulation between the parties to arbitrate the open issues, in which event legislation might not be necessary at all.

In any event, they should be able, assuming that the committees of the two unions accept the recommendation, to proceed to conclude this strike in short order.

Thank you very much, gentlemen.

[The prepared statement of Mr. Kheel follows:]

Statement of Theodore W. Kheel
Before the Senate Committee
April 15, 1983

I appear before you today as the adviser, not representative, of the United Transportation Union.

I am pleased to tell you that, on my advice, the Union not only indorses the bill you are considering today but is prepared voluntarily to accept the bill and the procedures of arbitration it proposes and to end the strike today if management likewise accepts the bill.

The Union, on my advice, will go one step further. It will accept any Senator from the State of New York or Conneticut as the neutral arbitrator and commence the arbitration tomorrow.

Gentlemen, I wish to congratulate you. You have made the first sensible proposal since this unfortunate strike began. It is simple and direct. It blames no one and it is fair. Let me tell you one more thing. In light of your proposal, this dispute can and will be settled through collective bargaining because both sides will know that if they don't accept fair terms, an impartial arbitrator will impose them.

Why hasn't this been done before. I think I can speak to that question in light of my experience as a mediator and arbitrator of labor disputes for over forty years. In that time, I have been involved in the resolution of more manning disputes than anyone in the United States, including major national transportation disputes in railways, trucking, shipping and airlines. I have served in many cases as mediator or arbitrator by appointment of Presidents of the United States.

This dispute, in my opinion, has been unnecessarily prolonged because the Union's position has been completely misrepresented in the press. In this respect, the editorial department of The New York Times has been the principal culprit. That newspaper, unfortunately for the Union, is read by virtually everyone of the 90,000 commuters who use the railroad. As a result, their tempers have been inflamed to fever pitch against the Union and management has been encouraged to believe that it was winning the strike when in fact it was merely making it more difficult to settle. I have found that there are no participants in any dispute that are absolutely right or wrong. There is, at the least, a grey area we should also recognize, particularly in a process that depends entirely on agreement if it is to succeed.

Take this morning's editorial, probably written because of this hearing to influence your deliberations. It makes the categorical statement that the Union, and I quote, "is striking to retain control of manning levels." This is completely false. The Union has never had conrol of manning levels, it has not asked for control of manning levels and it does not want control of manning levels. Manning levels on this railroad and virtually every other railroad in the United States are set through collective bargaining, a process of checks and balances. It is not the Union which wants control of manning levels, but management. Not merely that, but absolute control unsubject to any form of impartial review regardless of whether the Union believes management has made an arbitrary, capricious, unjust, unfair or unreasonable decision. This is the industrial relations equivalent of The Divine Right of Kings which assumes that the King can do no wrong, a doctrine of managerial infallibility which went out with the reforms of the abuses of the industrial revolution.

Ironically, The Times does not practice what its editorial department preaches, fortunately for The Times. Unquestionably, if the capable managers of the industrial relations of The Times followed the advice of the editorial department, that newspaper would be on strike today as well. I know whereof I speak. I settled the dispute of The Times over manning in the pressrooms in 1978. At no time did The Times assert in that dispute that it was entitled to absolute and unfettered control of manning levels.

Unfortunately, public officials are prone to look to the editorial department for guidance, in the belief, undoubtedly, that The Times is able to sway public opinion. I wish to say, in the interest of stable labor relations in the public sector, that you should listen not to what the editorial department of The Times says, but what its business managers do.

I thank you.

Senator **Weicker**. Thank you very much, Mr. Kheel, for your statement.

Mr. **Beebe**. Mr. Chairman, we would like to thank you for inviting representatives of the United Transportation Union to testify before your committee today. We had hoped that the hearings on possible Federal intervention into the collective bargaining process between Metro-North and the United Transportation Union would not be necessary. The union has attempted to make this process work by continually offering new proposals to break the deadlock that we have been in. Management—particularly Mr. Ravitch—has appeared to be more interested in negotiating in the press than across the bargaining table.

To show you how much the union has been willing to give, Mr. Chairman, let us briefly state the concessions that the union has already made.

Since the very beginning of the negotiations, management emphasized the need to, one, reduce costs; two, eliminate old compensation practices; and, three, increase management flexibility in work assignments, particularly with regard to technological change. The tentative agreements reached thus far accomplish these goals.

Under old collective bargaining agreements with Conrail, UTU members received extra compensation for such items as "deadheading," the "dual basis of pay," "arbitraries," monthly guarantees, and other bonuses traditional to the railroad industry. In addition, many of our members received 7 days' pay, even though weekend work was rather light.

The crew consist provision of the contract provides for manning of the trains according to the number of revenue passenger cars. This provision effectively guaranteed our members lifetime job security.

We have negotiated in good faith with Mr. Ravitch and the Metropolitan Transportation Authority over the past several months. The good faith bargaining on our part has resulted in 50 tentative agreements that, one, eliminate most of the old compensation practices; and, two, reduce weekly compensation to 5 days. In addition, we have proposed a number of crew consist and job stabilization proposals that would give management the flexibility that it claims it needs.

In all, we estimate that we have already agreed to proposals that would reduce total labor costs by over 25 percent in the first year that a contract would be in effect. These savings are due to two factors: fewer workers would be employed and those remaining would receive, on an average, lower annual income. Professor Woodruff will explain this more fully later on.

If the union has been so reasonable, why hasn't it signed a contract with Metro-North? While management has been more than willing to accept our economic concessions, they have refused to bargain with us on the issue of crew consist on passenger trains. Mr. Ravitch has repeatedly stated that the manning of the trains is a managerial prerogative and that it is not an issue, a legitimate collective-bargaining issue, to be negotiated with the union.

This attitude of management appears to violate the intent of the crew consist section of the report of Emergency Board 198. That report suggested that train crews should be determined as a function of passenger load, not merely by number of cars on a train. However, the report has also stated that no jobs should be lost and that guidelines for crew consist arrangements should be negotiated between the union and the management. There is no mention of managerial prerogative.

Shortly after taking over the control of the three commuter rail lines, Metro-North laid off over 50 UTU members. Throughout negotiations, they have refused to include those unemployed workers in any of their so-called job guarantee plans. In other words, these 50 workers are lost forever.

In recent weeks, the UTU has attempted to comply with the spirit of the Emergency Board's suggestions on crew consist by tailoring crew consist assignments more closely to passenger load. Under normal crew consist clauses train length is determined by the number of revenue passenger cars. A revenue passenger car is one that is available for passenger use. We suggest to management that they could achieve their objectives by implementing universal work practices to load and unload trains more efficiently so that trains could be more frequently shortened by closing off unused cars.

While they took notes, they did not respond to our suggestions. While the UTU still favors the so-called Amtrak crew consist proposal, it has been willing to modify this proposal significantly since the strike began on March 7. Even under Amtrak consists, Metro-North would be able to reduce the total workforce by nearly 24 percent below current levels.

During the last week before talks broke off, the UTU submitted five different crew consist proposals to Metro-North in an attempt to break the impasse. Each time the only reply was no, because in management's words, they don't want to ever negotiate this issue again.

I am going to let General Chairman Frear continue.

Senator **Weicker**. I wonder if I just might, for 1 minute—is Mr. Ravitch in the room?

Voice. He is just making a phone call to the Governor now, I think.

Senator **Weicker**. All right. You proceed, Mr. Frear. I have a statement I would like to make at such time that Mr. Ravitch comes back.

Go right ahead, Mr. Frear. It's nice to have you here.

Mr. **Frear**. I would like to also thank you, Mr. Chairman, for allowing us to testify before your committee today.

My name is Richard Frear, and I am the general chairman of the Hudson and Harlem. I would like to talk about why crew consist is important to the union.

Over 99 percent of the railroads in the country have crew consist agreements in their collective bargaining agreements. Modern crew consist agreements have eliminated the so-called featherbedding that existed in the past. These crew consist clauses are based on assignments of how many conductors and trainmen are needed to safely and efficiently operate a train. The public generally thinks of conductors as ticket-punchers. However, the jobs, duties of a conductor include many other tasks, particularly in emergencies.

A few examples will illustrate why at least two crew members are needed on trains to assure passenger safety.

One, in the event of a derailment both crew members would be needed to flag down other trains to prevent further injury to passengers due to side-swiping and rear-end collisions.

Two, when a passenger has a medical emergency, such as a heart attack, one crew member must attend to the immediate needs of the passenger while the other radios for medical assistance at the next stop and, if necessary, diverts the train.

Three, in a tunnel fire or accident, engines must be cut off, electricity to rail lines must be disconnected and the passengers must be guided to safety. One conductor could not reliably perform all of these duties without seriously endangering passenger safety.

In addition to passenger and crew safety, Mr. Chairman, crew consist also speaks to another issue: the nature of the job performed by conductors. In addition to ticket collecting and emergency assisting, conductors assist passengers in many other ways while on the train, and help guide others to their destinations, particularly those passengers traveling during off-peak hours.

What the union has proposed is that during the last week of bargaining the union informed management that it would accept either of two approaches to the crew consist. One, further reductions below those called for in the Amtrak consist rule, or, two, management's consist rule of one conductor if a bottom line for the total size of the workforce could be negotiated. These proposals are attached as proposals A through E.

The bottom line or job stabilization approach was a departure for the union. We basically conceded, subject to health and safety grievances, management's right to make train-by-train assignments. But we wanted some assurance that changes over the next 3 years would not come too quickly to be monitored effectively.

In the last two proposals that we put on the table last Sunday, we would have permitted management to serve section 6 notices on the consist clause for passenger trains at any time during the term of the contract. In other words, with proper planning, management could reopen this part of the contract to meet changing conditions.

Now, we have agreed that this legislation—I would be willing to take it back to my membership and expedite that as quickly as possible.

Mr. Beebe. Mr. Chairman, if I might continue, briefly?

The UTU submits that it has been clear to us since the strike first began that Mr. Ravitch and Metro-North had not been interested in reaching an agreement. We can only speculate on what motivates them to desire a continuation of the strike. But we suspect we are pawns in a larger struggle to seek State law coverage of commuter rail labor agreements. And I submit that Mr. Ravitch testified to that substance early on when he mentioned that General Chairman Euwell had called him on the telephone and told him if he gives us a crew consist agreement that he is going to strike the Long Island Railroad. However, what Mr. Euwell does or does not do should not have any bearing on the negotiations between us and Mr. Ravitch.

The UTU is currently planning to file, as a result of this, bad faith bargaining charges against Mr. Ravitch and Metro-North due to their refusal to bargain and their bargaining in the press tactics. Mr. Ravitch appears to believe that a long strike will further his political interests. In the meantime, 90,000 commuters and 5,000 employees will suffer.

As Professor Woodruff will point out, this is not a strike over economics. We have agreed to enormous economic concessions. This strike is not even over flexibility. Our proposals have provided for flexibility, even during the term of this agreement.

Mr. Chairman, we have come here today to report to you on the UTU's position in these issues involved in the Metro-North strike. We believe we have taken reasonable positions throughout these negotiations.

For the past several weeks the threats of Federal intervention to end the strike have served primarily to slow down the bargaining process. Mr. Ravitch's trips to Albany, Hartford, and Washington, to seek political backing, have diverted our attention to the lobbying instead of bargaining.

We hope this effort today will have another purpose: to motivate the parties to return to the bargaining table to end this strike.

I am prepared to take the specific provisions of this legislation back to my membership for approval. And hopefully we can get these trains rolling Monday morning.

[The prepared statement of Mr. Beebe follows:]

W. A. BEEBE
General Chairman
A. F. MURPHY
Vice Chairman

united
[illegible]
union

GENERAL COMMITTEE OF ADJUSTMENT
CONRAIL DISTRICT F — AMTRAK N.E. CORRIDOR

47 COLLEGE STREET
NEW HAVEN, CONN. 06510
(203) 865-3188

March 13, 1983

STATEMENT OF WILLIAM A. BEEBE

The United Transportation Union enters negotiations today hopeful that we can reach a fair settlement with the Metropolitan Transit Authority that will return commuter rail service to the public.

Throughout negotiations, the UTU has been open to suggestions from management to improve the efficiency and to reduce costs of the rail service. We have proposed a crew consist plan that would eventually permit the trains to operate with fewer conductors and trainmen. We propose to implement such a reduction through early retirement and attrition.

This plan is nearly identical to the one adopted by Amtrak for passenger service in the Northeast Corridor. Both management and labor have agreed that the Amtrak crew consist plan properly balances the need for efficiency, safety, and passenger comfort. Even in the New Jersey Transit negotiations the UTU and management are in agreement on a crew consist arrangement.

We are, of course, concerned about preserving the jobs of our members. But we are also worried that a rapid reduction of force beyond the levels that we have proposed would reduce the quality of service on the Metro-North commuter lines. Currently, this service is generally safe, clean, and comfortable. Recently, Judge Barry D. Marcus "reaffirmed the passenger's right to be transported in a reasonably safe and comfortable manner." In his ruling, Judge Marcus found that on some runs the carrier had committed "a breach of its contract of carriage" with commuters by offering late, dirty and crowded service.

If the UTU does not secure agreement from Metro-North on a minimum crew size the occasional situation that Judge Marcus cited will become commonplace. Then, the burden will be shifted to commuters to seek action in the courts to restore the service to current levels.

The issue in this strike is not money. We have agreed to fifty items with Metro-North that could save the system millions of dollars in the first contract year. Those savings are more than adequate to meet the budget needs of Metro-

North and the public that supports it. What is at stake in this strike is the nature of the commuter service that will be provided. Let me give you a few examples of what we are talking about.

The crew consist proposal that we made to management would permit the crew on a six-car train to be reduced to one conductor and one trainman.

- In the event of a derailment, both crew members would be needed to flag down other trains and to prevent further injuries to the passengers due to sideswiping and rear-end collisions.

- When a passenger has a medical emergency, such as a heart attack, one crew member must attend to the immediate needs of the passenger while the other radios for medical assistance at the next stop and, if necessary, diverts the train.

- In a tunnel fire or accident, engines must be cut off, electricity to rail lines must be disconnected and passengers must be guided to safety. One conductor could not reliably perform all of these duties without seriously endangering passenger safety.

WHERE ARE WE TODAY?

If Mr. Ravitch is telling the truth, we are in fact very close on most items:

- We have agreed to 50 of 52 economic and non-economic items.

- Mr. Ravitch says that he wants to operate the trains with 70 fewer conductors and trainmen; we have proposed a "crew consist" plan that would permit this reduction through attrition within the year.

- We have agreed on major changes in the method of employee compensation that would permit the trains to operate more efficiently and would save the train system millions of dollars.

Today, we go into negotiations with a proposal that we believe will meet the needs of rail commuters and should break the impasse in bargaining that we face.

The United Transportation Union calls on Metro-North to join with us in establishing a joint Labor-Management-Commuter Committee on Passenger Safety and Crew Size. This joint committee would include representatives of commuters from each of the rail lines. We propose that this committee have the following responsibilities:

(1) Developing a safety training program for all conductors and trainmen. The program would include first aid, emergency techniques and procedures, handling and positioning of stricken commuters, and knowledge of procedures and equipment used for respiratory and cardiac emergencies.

(2) Monitoring a program of crew reduction through attrition down to the levels permitted under the so-called Amtrak Crew Consist Agreement during the life of the agreement.

(3) Sponsoring a 24-month study of optimum crew size to ensure safe and reliable commuter rail service. The goal of the study would be to recommend further changes, if any, in crew size to the bargaining parties. Receipt of the study 24 months from now would provide both sides adequate time to prepare for negotiations next time and avoid another commuter rail strike in three years.

Acceptance of this proposal will end this strike tonight and will ensure that the trains will be rolling in the morning.

W. A. BEEBE
General Chairman
A. F. MURPHY
Vice Chairman

united
transportation
union

GENERAL COMMITTEE OF ADJUSTMENT
CONRAIL DISTRICT F - AMTRAK N.E. CORRIDOR

47 COLLEGE STREET
NEW HAVEN, CONN. 06510
(203) 865-3188

March 28, 1983

Mr. Richard Ravitch
Chairman
Metro-North Commuter Railroad
347 Madison Avenue
New York, New York 10017

Dear Mr. Ravitch:

I am writing you this letter in an effort to break the impasse that we appear to have reached in face-to-face collective bargaining sessions. While at times it appears that we are sometimes miles apart in our discussions, when our proposals are reduced to paper I believe we are very close to agreement.

Since the very beginning of our negotiations you have emphasized the need to (1) reduce costs, (2) eliminate old compensation practices, and (3) increase management flexibility in work assignments, particularly with regard to technological change. If you review the tentative agreements that we have reached thus far, you have to conclude that you are very close to accomplishing your goals.

You have stated many times that you wanted to reduce labor costs by $2.5 million, approximately a 10% reduction over current labor costs for conductors and trainmen on Metro-North trains.

As you know, the UTU commissioned a study of the cost savings to the MTA of various crew consist proposals as well as the items on which we are in tentative agreement. Our best estimate is that the UTU's crew reduction proposal would save the MTA over $2.6 million in the first year, even with the severance and vacation pay offered by you. In addition, our study indicates that the MTA would save an additional $4 million by going to a five-day work week, even after inclusion of the costs for paid holidays and personal days. Therefore, the UTU has agreed to total cost savings of over $6.6 million. Last year, total labor costs attributable to UTU members equalled $26 million.

In other words, the UTU has agreed to cost savings that should reduce total labor costs over 25% over the next 12 months. These savings are due to the fact that the trains would be operating with fewer UTU members and those who remain would be paid approximately $2,600 less per year on average.

The UTU is now willing to make you an offer on the issues of management flexibility and responsiveness to technological change that I believe should meet management's needs in those areas.

We have proposed the so-called "Amtrak Crew Consist" arrangement that calls for a crew of two for trains of two to six cars, three for more than six, as well as various bonuses. You have offered to guarantee only a crew of one on all passenger trains. You have previously agreed to a minimum crew of one conductor and one trainman on all yard, switching, work and wire assignments.

The UTU proposes to amend our previous proposal on the Amtrak Crew Consist to the following:

(1) Eliminate all of the bonuses in the Amtrak Crew Consist language.

(2) Add contract language to Rule 7 to permit management to standardize work practices to close train cars when not needed — thus determining the number of "revenue cars" and crew by passenger load.

(3) Add contract language to Rule 7 that would allow management to reopen the crew consist issue to free collective bargaining should the introduction of automatic fare collection systems suggest lower levels.

We continue to propose the establishment of a Joint Labor-Management-Commuter Committee on Rail Safety and Crew Size. Establishment of such a committee should ensure input from commuter interests that I believe have been neglected in our negotiations. I am willing to subject the crew size issue to their review as well as the scrutiny of safety experts. I am also willing to require that all conductors and trainmen receive safety training so they can provide better service on the trains.

Attached you will find proposed contract language on these issues. In addition to this language we need to receive written contract language on your proposal concerning attrition and job guarantees. We have yet to receive a written proposal on that issue from you.

Once you have thought carefully about these proposals, the UTU would be more than willing to meet in face-to-face bargaining sessions to resolve these matters. We are willing to enter into round-the-clock negotiations if you are willing to seriously negotiate over these matters. In addition, we believe that both sides should agree to a news blackout once talks resume.

Sincerely yours,

William A. Beebe

William A. Beebe
General Chairman

att.

UTU PROPOSAL

RULE 7

CREW CONSIST

(a) For passenger trains consisting of one passenger car, the minimum crew will be a conductor.

(b) For passenger trains consisting of two to six revenue passenger cars, the minimum crew will be a conductor and one assistant conductor.

(c) For yard crews, hours of service relief crews, wire trains, work trains or wreck trains, the minimum crew will be a conductor and one assistant conductor.

(d) For trains consisting of seven or more revenue passenger cars, the minimum crew will be a conductor and two assistant conductors.

(e) The definition of a revenue passenger car is one in which seats or accomodations may be purchased by passengers.

(f) Management may reduce the number of revenue passenger cars on a given train by establishing work practices to close cars when passenger load does not require their use.

(g) Management may reopen this clause for free collective bargaining during the term of this agreement should management desire crew levels below that enumerated in (a), (b), and (d) due to the introduction of automatic fare collection systems. Management shall give the union thirty days written notice prior to the commencement of collective bargaining over the reopening of this clause.

UTU PROPOSAL

RULE

JOINT LABOR-MANAGEMENT-COMMUTER COMMITTEE

Within sixty days after the effective date of this agreement, a Joint Labor-Management-Commuter Committee on Passenger Safety and Crew Size shall be established. Membership on the Committee shall be: three (3) experienced UTU conductors, three (3) experienced operating managers from Metro-North, and three (3) commuter representatives from each of the rail lines. Nominations for commuter representatives shall be solicited by the parties, and final selection shall be made by mutual consent.

The Joint Committee shall be enpowered to carry out the following functions:

(1) Develop a Safety Training Program. The program should include first aid, emergency techniques and procedures, handling and positioning of stricken commuters, and knowledge of procedures and equipment used for respiratory and cardiac emergencies.

(2) Monitor the crew reduction program through attrition to minimum levels agreed to in Rule 7.

(3) Sponsor a 24-month study of optimum crew size to ensure safe and reliable rail service. The parties may agree to utilize consultants and seek financial support in completing the study. The findings of the report will be made available to the public and to the parties upon completion.

Additional duties may be given to the Joint Committee during the term of this agreement upon mutual consent of the UTU and the management of Metro-North.

State of New York

M

Metro-North
Commuter
Railroad

347 Madison Avenue
New York, N.Y. 10017
Phone 212-340-3000

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PRESIDENT AND GENERAL MANAGER

March 29, 1983

Dear UTU Member:

Metro-North has not been operating now for more than three weeks, a most unfortunate situation for all those involved. In an effort to end the strike, we have made what we believe to be an extraordinary offer; namely, we shall not lay off or furlough any of 622 conductors and trainmen who were on the payroll just prior to the strike. Each of you will be guaranteed five days pay per week. We are genuinely concerned about you and your families. We believe this proposal gives you full job security and, at the same time, allows us to make the changes we want, but only through attrition over a period of time. This job guarantee will, of course, be written into the contract.

Some of the major contract provisions already agreed to by your leadership and Metro-North are as follows:

1. Increase the rates of pay for conductors to $14.25 per hour and for trainmen, to $13.50 per hour on a five-day, work-week basis.
2. The establishment of "swing runs" with the number of swing assignments to be strictly limited. This "swing time" will be paid at one-half the basic hourly rate so that a conductor or trainman will be guaranteed 50 hours pay per week for this assignment. Furthermore, there will be no swing assignments on weekends.
3. Compensate all conductors and trainmen at time-and-one-half rates for overtime and for work on relief days.
4. Paid sick leave comparable to that in effect on the Long Island Rail Road.
5. Eleven paid holidays and three personal days for all conductors and trainmen.
6. Preservation of all seniority rights based on an order selection list to protect the equity of existing conductors and trainmen.
7. Protection of existing levels of vacation pay and health and welfare benefits based on prior railroad service.
8. A guaranteed, paid extra board for conductors and trainmen.
9. Free uniforms for passenger-train personnel.

If you want a job with Metro-North, you have it - with a guarantee of five days pay. However, we simply cannot and will not go any further. If your leadership continues to reject this offer, it will be a very long strike.

Richard Ravitch

Peter Stangl

RULE 7

CREW CONSIST

a) There shall be one conductor on each revenue passenger train. The manning of trains will otherwise be determined by Metro-North. Metro-North will inform the Union in advance of any proposed change in a train's crew and will give the Union the opportunity to discuss the proposed change, provided however, that Metro-North may implement the change in case of disagreement.

b) An employee may bring a claim directly to the Special Board of Adjustment based upon an assertion that the manning of a train to which he is assigned jeopardizes the health or safety of the employee. If the grievance is sustained, the Board is empowered to the correct condition.

c) On all yard, switching work and wire assignments, the minimum crew shall be one conductor and one trainman.

d) Metro-North agrees not to furlough or lay-off any person who was employed by Metro-North as of March 1, 1983 (except for emergency annulments pursuant to Rule 10). The parties agree that 622 individuals, identified in Attachment A, are subject to this job guarantee. Metro-North will reduce the work force from this list of 622 persons only by attrition, as a result of retirement, death, discharge after all rights of appeal are exhausted, resignation or any other voluntary separation from Metro-North employment.

April 4, 1983

UTU PROPOSAL A

1. One conductor required on all trains
2. One conductor, 1 assistant conductor for yard crews, wire trains, etc.
3. Job and income guarantees as understood (subject to clarification)
4. Deferred discipline
5. Attrition of passenger rail workforce cannot fall below 450 during term of the Agreement (subject to section 6 notice). Attrition and bottom line subject to percentages in Implementing Agreement.
6. Crew run assignment books developed by management with union consultation every 6 months
7. Union may grieve to special three-member board if it believes assignements endanger crew or passenger safety or health.
8. 30 months after start of Agreement, Special Board issues nonbinding recommendations to parties on crew consist.
9. "Free flow" seniority among Conrail, Amtrak, Metro-North

UTU PROPOSAL B

1. One passenger car, 1 conductor

2. Three or more revenue passenger cars, 1 conductor, 1 assistant conductor

3. Seven or more revenue passenger cars, 1 conductor, two assistant conductors

4. Yard crews, wire trains, etc., 1 conductor, 1 assistant conductor

5. Job and income guarantees as understood (subject to clarification)

6. "Free flow" seniority among Conrail, Amtrak, Metro-North

7. Deferred discipline

SUMMARY SHEET

	622 Workers	560 Workers (1st year)	479 Workers (Ultimate)	470 Workers (Ultimate)
SAVINGS				
(1) Crew Reduction	-	$3,330,313	$7,619,755	$8,099,320
(2) 5 day week	$8,658,240	$7,795,200	$6,667,680	$6,542,400
(3) 8 hour day w/ new wage rates	0	0	0	0
	Sub Total:	$11,125,513	$14,287,435	$14,641,720
ADDITIONS				
(4) Holidays (11)	$2,326,280	$2,094,400	$1,791,460	$ 1,757,800
(5) Personal Days	$ 298,560	$ 268,800	$ 229,920	$ 225,600
(6) Severance Pay (one time)		$ 350,000		
(7) Vacation (one time)		$ 358,000		
(8) Swing Time		$1,372,621	$1,172,873	$1,150,836
	TOTAL:	$6,681,692	$11,093,182	$11,507,484

Senator WEICKER. Thank you very much.

Tom I am going to get to you in just one second. I just wanted to ask if Mr. Ravitch is back in the room yet. Well, just as soon as he is ready I would like to address some comments.

But, Tom, go right ahead.

Mr. WOODRUFF. Yes, Mr. Chairman.

I will make a very brief statement on three issues: The economics of the tentative-agreements thus far; the disruption of the collective bargaining process during these negotiations; and, finally, I would like to comment on the proposed legislation and the possible solution this may have to end the strike.

First let me talk about economics. As General Chairman Beebe pointed out earlier, I conducted an analysis of the cost savings to Metro-North of the tentative agreements as well as UTU proposals on the unresolved items, primarily crew consist.

Last year, total costs for wages and fringe benefits for UTU members equalled approximately $26 million on Metro-North. If Metro-North accepted the union's proposal during these negotiations, particularly the so-called crew consist proposal, I estimated that first-year savings to the MTA would exceed $6.6 million. This means a total savings of over 25 percent in first-year labor costs.

Approximately $2.6 million would be saved due to the crew reductions permitted under the union's proposals, and approximately $4 million would be saved due to changes in the compensation provisions, primarily the 5-day workweek.

Last year, UTU members were compensated for an average of 333 days per year. Under the current tentative agreements, these workers would receive only 260 days pay per year.

The MTA has talked about their generous wage offer to the press and earlier today. In fact, however, under already-agreed-upon provisions, UTU members would, on average, receive the same daily compensation this coming year as they did last year. Their annual compensation would, on average, be less than it was last year.

Estimates of long-term labor cost savings under the various UTU proposals are more difficult to estimate due to uncertainties about future conditions. However, I believe that it is reasonable to estimate that approximately $10 million a year in annual labor cost savings would be realized under the UTU proposals. In other words, the UTU has already agreed to proposals that could lead to annual labor cost savings of nearly 40 percent a year.

Mr. Chairman, even in an era of wage concession bargaining and public-sector budget cutting, labor cost reductions of 25 to 40 percent a year seem more than reasonable.

Now, on the other issue, the bargaining process.

In order for collective bargaining to work effectively, both parties must want to reach an agreement. It is my judgment, based on Metro-North's behavior, that they in recent weeks have not been interested in seeking a settlement of this crisis.

As our formal submission documents—at least the attachments to the formal submission—the union has made numerous proposals on the consist issue since the strike began. Several of these proposals represent significant compromise from the union's original position at the time that the strike began.

Metro-North, as Mr. Ravitch in fact documented earlier today, has not changed its position at all since the inception of the strike.

As a further footnote to that, I might add that the union—while he claims that promises on the job guarantees were made at the inception of the strike on March 7, the union did not receive a contract language on all of the provisions until April 4.

In collective bargaining, if you are not willing to compromise you probably are not seeking an early resolution to the conflict. And I fear that I must concur with General Chairman Beebe's judgment that this conflict has been deliberately drawn out by Mr. Ravitch and perhaps even Governor Cuomo in order to promote legislation to bring all commuter rail lines under State labor law.

I believe that the union members and the commuters have suffered long enough. And I join with you in recommending binding arbitration on all issues still in dispute when the impasse was reached last Sunday.

I also——

Senator WEICKER. Tom, I wonder if I might at this juncture interrupt. I received a communication a little while back from Mr. Ravitch, who apparently does have other matters that he has to attend to—and he didn't want to in any way indicate bad faith by leaving. I want to make that point. And he is leaving his counsel here.

Let me say this, if I might. First of all, I greatly appreciate the statements, Tom, of you, of Ted Kheel, of Bill Beebe, and of Dick Frear, relative to your willingness to resolve this matter. As you have indicated, this is something apparently that you do have to poll your members on. Hopefully we will hear the results of that sometime tomorrow.

By in the same token, I imagine that Chairman Ravitch has to go ahead and consult with the Governor and with members of the MTA.

I just wanted to make the point. And hopefully we will hear from him also in an expeditious period of time. But I just wanted to make the point, because he requested to leave. And I consider that a perfectly reasonable request, and after all the talk up here on the panel it doesn't indicate on his part any negative attitude toward the proceedings here. But he does have other matters to attend to.

Am I correct that there are those who can speak to any issue that might be raised here, or that there will be some sort of response forthcoming if indeed the union's position is as recommended by Ted Kheel before this committee?

Mr. RAVITCH. May I respond to that?

Senator WEICKER. Yes, please do.

Mr. RAVITCH. I could stay for a few more minutes, and I would be delighted for my board members here to confirm to you that if the union vote is affirmative tomorrow, then——

Senator WEICKER. Well, then, can you wait just a few more minutes?

Mr. RAVITCH. Yes.

Senator WEICKER. I appreciate it very much. Thank you, Mr. Ravitch.

I'm sorry, Tom.

Mr. **Woodruff**. Mr. Chairman, I believe it is very important for us to clarify here what we are discussing about taking back to the members of the bargaining teams. We are discussing taking back the language, the exact language included in this legislation and proposing to them that they accept this on a voluntary basis, in proposing that they accept the exact terms of the proposed legislation.

We do not believe that it would be useful at this time for us to enter yet another round of round-the-clock bargaining with Metro-North over what the terms of that arbitration procedure should be. We don't believe that would be constructive, and it would probably end up in yet another impasse.

Senator **Dodd**. Can I interrupt you right there?

Senator **Weicker**. I think I indicated as much, I might add, in my comments relative to Governor O'Neill's testimony.

Yes, Senator Dodd?

Senator **Dodd**. I think that is a very key point. It seems quite clear as I have listened to both Mr. Ravitch and the four of you here, that as far as the formula that has been proposed in the legislation for binding arbitration, there seems to be, at least, subject to a polling of your committee and approval by the MTA. On that point there seems to be agreement.

Where I am unclear, and maybe I have missed the point, is on what would be subject to binding arbitration? And I want to make sure—not specifically what is going to be resolved, but what areas are we talking about? Is it everything or just the major issue in dispute? What is the general area that will be covered, assuming that we have agreement on the formula for binding arbitration?

Mr. **Woodruff**. Senator, in the bill, it provides that all issues that are in disagreement as of 12:01 a.m., April 11, would be submitted.

Senator **Dodd**. Mr. Ravitch seemed to indicate that everything was still in disagreement.

Mr. **Woodruff**. Well, we have the benefit of having had a mediator present at all of our bargaining sessions. On Sunday we very carefully and painfully, I might add, walked through every issue that the union stated they were in disagreement on with Metro-North. And we documented very carefully which issues were still outstanding and which issues were in dispute.

During that process we resolved a number of issues, so that we only have, I would say, probably, a very few issues outstanding. There are a few language problems which we clarified at the end of the session, and then there are several other items in addition to the consist issue. But we documented that at the last bargaining session and should there be a dispute between the parties, there was a mediator present at those sessions who could clear up any disagreement.

Senator **Dodd**. So, it would be only those unresolved issues that would be subject to binding arbitration?

Mr. **Woodruff**. That's right. The union's position is that——

Senator **Dodd**. I want to clarify that, if I might. I would like to hear Mr. Ravitch's comment on that one point.

Senator **D'Amato**. It is in the bill, and he has acknowledged that.

Senator **Dodd**. He has acknowledged and agreed to that?

Senator D'AMATO. That's in the bill, yes.

Senator DODD. Is counsel here?

Mr. KHEEL. The recommendation—excuse me, Senator—that I made to the union, was based on the assumption that the only issues to be arbitrated were those that remained unresolved on and after 12:01 a.m. on April 11. That all other matters would be considered as having been resolved.

Now, I have only been involved a very short time, but I did have the opportunity to ask both sides whether—what was the status of the open issues. And they both told me that the crew consist issue was the overwhelming issue, that there were some other matters but they felt very confident—and this was stated to me by both sides—that they could be resolved, perhaps through bargaining, but certainly through arbitration pursuant to the legislation you have proposed.

Senator DODD. Yes, I understood that. I just wanted to make sure we all understood. If that was the agreement—if, in fact, having walked through this the other day, if everyone will agree that what you walked through the other day, what remains unresolved after that walk-through, would be subject to arbitration.

Mr. KHEEL. That's right.

Mr. WOODRUFF. That is our understanding of the intent of the legislation, and, as I mentioned, Senator, if there were minor disagreement over issues, that a mediator was present who was taking notes, who could resolve or clear up any disagreement that the parties might have.

Senator DODD. Thank you very much.

Senator WEICKER. Thank you all.

I have no questions that you have not covered in the course of your testimony and in the course of what it is that you have indicated before this committee.

Now, there might be further questions.

While we are waiting for Mr. Ravitch, we have one more witness to appear, Mr. Ken Woodman, chief counsel of UMTA. Perhaps what we can do now is excuse the present witness and ask him to stay here and have Mr. Woodman testify.

Mr. Woodman? Is Mr. Woodman here?

Mr. WOODMAN. Yes, sir.

Senator WEICKER. Mr. Woodman, its good to have you before the committee. Why don't you identify yourself and those that appear with you, and proceed with your testimony in any way you deem fit.

STATEMENT OF G. KENT WOODMAN, CHIEF COUNSEL, URBAN MASS TRANSPORTATION ADMINISTRATION; ACCOMPANIED BY JEFFREY MILLER, SPECIAL ASSISTANT TO THE GENERAL COUNSEL

Mr. WOODMAN. Thank you, Mr. Chairman.

My name is Kent Woodman. I am the chief counsel of the Urban Mass Transportation Administration. With me is Jeff Miller, who is Special Assistant to the General Counsel.

I appreciate the opportunity to appear before the committee and to discuss the current Metro-North commuter rail strike in New York and Connecticut.

Both Secretary Dole and Administrators Teele and Blanchette have expressed their deep concern over the strike's effect on the greater New York area, and they share your hope that the matter can be resolved quickly.

Speaking personally, I am happy to be with you, and I am not sure whether my presence here is an indication of my superior's confidence in me or the fact that I am expendable. But I am happy to be with you today. [General laughter.]

Senator **Weicker**. All right.

Mr. **Woodman**. We have a statement to submit for the record, which I would like to go over very quickly.

Senator **Weicker**. The committee audience will be in order. The statement that will be included in its entirety in the record, Mr. Woodman. Believe me, you are very welcome here, and I very much appreciate your making the effort. You are not at all expendable; you are a very indispensable part of the process.

Mr. **Woodman**. The Northeast Rail Service Act spelled out special rules to govern the collective bargaining process in the transfer of responsibilities from Conrail to the commuter authorities. As you know, that legislation terminated Conrail's responsibility to operate commuter service and allowed the commuter authorities to elect whether to operate the service on their own or to operate under the newly created Amtrak Commuter Services Corporation. It established a specific process, requiring collective-bargaining agreements by September 1 of last year, and establishing an emergency board mechanism if those agreements were not entered into. The emergency board mechanism was triggered and emergency board rendered its report. The Congress specifically provided in the law that that emergency board recommendation was not binding on the parties, and that if new agreements were not in effect at the time of the transfer the parties should rely on the traditional bargaining process.

That process has obviously run its course and a strike has ensued.

Recently, several elected officials in the region have suggested that the Federal Government intervene to resolve the dispute. Governor Cuomo of New York has asked for special legislation, as has Governor O'Neill.

Mrs. Dole has responded to both Governors to express the Administration's position on possible Federal legislation, and I would like to review the basic points that she has spelled out.

First, the administration strongly believes that labor disputes on local transit systems should, if at all possible, be resolved at the local level through collective bargaining rather than through Federal intervention.

We are concerned, as a matter of policy, that federally dictated contract terms in this instance could set an unfortunate precedent for labor disputes on other types of commuter rail transit systems.

Second, the administration has indicated consistently that we would not object to placing commuter rail labor relations under State law, if Congress determines that action to be appropriate.

That continues to be our position, although Congress has twice expressed its desire over the past 2 years to retain Federal jurisdiction in this area under the Railway Labor Act.

Third, and perhaps most significantly, since all avenues under the current law have been exhausted and the only permissible action under existing law is agreement of the parties, any new initiative at this time would require the enactment of legislation. Realistically, we believe that any such action would first require a general consensus among the Senate and House Members from the affected region. We understand that you, Senator Weicker, with Senator D'Amato, have introduced a bill. We understand that Congressman McKinney has introduced legislation on the House side, and that these proposals may well form the basis for developing such a consensus and a reasonable compromise.

The administration would consider very carefully any proposal that receives such support.

That concludes my statement. I would be happy to try to answer questions.

Senator WEICKER. Thank you very much.

[The prepared statement of Mr. Woodman follows:]

STATEMENT OF G. KENT WOODMAN
CHIEF COUNSEL, URBAN MASS TRANSPORTATION ADMINISTRATION
SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES
APRIL 15, 1983

I appreciate the opportunity to appear before this Committee today to discuss the current Metro-North commuter rail strike in New York and Connecticut. Both Secretary Dole and Administrator Teele have expressed their deep concern over the strike's effect on the greater New York area, and they share your hope that the matter can be resolved quickly.

Some brief background on the current dispute and the recent rail transfer may be helpful. The Northeast Rail Service Act of 1981 (NERSA) transferred Conrail's commuter rail lines in New York, Connecticut, New Jersey and Pennsylvania to local commuter authorities. The Metro-North system, including both physical assets and labor resources, was transferred to the Metropolitan Transportation Authority (MTA) and the Connecticut Department of Transportation (ConnDOT), effective January 1, 1983.

NERSA spelled out special Federal rules to govern the labor transfer during the transition period. Those included the development of "implementing agreements" to determine how employees would be selected and transferred from Conrail to the authorities, and then new collective bargaining agreements between the authorities and the rail labor organizations.

NERSA also provided for the appointment of Presidential Emergency Boards to investigate and help resolve collective bargaining disputes that might develop. However, Congress specifically decided that the recommendations of those Boards would not be binding on the parties. If new agreements were not in place at the time of transfer, the law provided that the parties should rely on the traditional bargaining process.

In the case of Metro-North, the President did appoint a three-member Emergency Board last October, consisting of Arvid Anderson, Daniel Collins and Richard Niner. That Board investigated the dispute, reviewed the "final offers" of the parties, and issued its report in mid-December. As required by NERSA, the operational transfer took place as scheduled on January 1 of this year, although new agreements had not yet been reached with all of the rail labor organizations. With continued mediating assistance from Mr. Anderson, the parties continued to negotiate, and new agreements were reached with all of the unions except the United Transportation Union (UTU), which represents conductors and trainmen.

MTA and UTU have not been able to reach agreement on the "crew consist" issue. On March 7, the UTU struck Metro-North. There have been several negotiating sessions between the parties since then, but the strike is still in progress.

Recently, several elected officials in the region have suggested that the Federal government intervene to resolve the dispute. Governor Cuomo of New York has asked for special legislation to impose the recommendations of the Emergency Board on the parties or, alternatively, for legislation to place this and other commuter rail labor disputes under state law. Governor O'Neill of Connecticut has suggested legislation to order the employees back to work and settle disputed issues through binding arbitration.

Secretary Dole has responded to both Governors to express the Administration's position on possible Federal legislation. I would like to review the basic points that she has spelled out.

First, the Administration believes strongly that labor disputes on local transit systems should, if at all possible, be resolved at the local level through collective bargaining, rather than through Federal intervention. We are concerned that Federally dictated contract terms in this instances could set an unfortunate precedent for labor disputes on other types of mass transit systems.

Second, the Administration has consistently indicated that we would not object to placing commuter rail labor relations under state law, if Congress determines that action would be appropriate. That continues to be our position, although Congress has twice expressed its desire over the past two years to retain Federal jurisdiction in this area.

Third, and perhaps most sigificantly, since all avenues under current law have been exhausted, any new initiative at this time would require the enactment of new legislation. Realistically, we believe that any such action would first require a general consensus among the Senate and House members from the affected region. We understand that Senators D'Amato and Weicker and Congressman McKinney have now introduced legislation that may well form the basis for developing such a consensus and a reasonable compromise. The Administration would consider very carefully any proposal that receives such support.

That concludes my prepared statement. I would be pleased to try to answer any questions that the Committee may have.

Senator WEICKER. Senator Dodd?

Senator DODD. Well, you have answered the question. You really don't know yet, or you are not prepared to say, whether or not the administration would support this legislation. I gather you were in the room during the testimony of the previous two panels; the labor and management representations. Assuming that the agreement doesn't necessarily happen on its own—and it looks like it might—but if it doesn't, and the legislative process has to go forward, the fact that we do have consensus, politically and substantively, at least, with the affected parties and Congress, are you prepared at this hour to tell us whether the administration, in light of that, would support this legislation?

Mr. WOODMAN. We received copies of the legislation today. It is definitely being reviewed. We are aware of the developing consensus, and we have, I feel, a definite responsibility to expedite our review and give some response as to our position.

Mr. RATCHFORD. Do you have a timeframe? If I might ask?

Senator WEICKER. Congressman Ratchford, sure.

Mr. RATCHFORD. Senator Dodd has raised the question, you said you would review it expeditiously. Could you be more precise?

Mr. WOODMAN. I cannot give a precise time that we would have an answer based on our review. As I said, I realize that this is something that needs to be handled expeditiously, and I do feel that we have a responsibility to focus our immediate attention on it and to give some response as to our position on the legislation.

Senator DODD. Let me just say, I am sure that my statement supporting Senator Weicker about the question of your expendability would carry great weight in the White House. But from your own personal standpoint, having looked at the legislation and what was drafted by Senator Weicker and Congressman McKinney, what would you recommend to the Secretary, having had a chance to look at it?

Mr. **Woodman**. What I would recommend to the Secretary is consistent with the strong preference of the administration that the matter be resolved by the parties.

Senator **Dodd**. I understand that, but——

Mr. **Woodman**. And if there is a possibility that that will occur, and there appears to be, then I think we would want to exhaust that first.

Senator **Dodd**. It could have—I mean, it looks as though it sounds good right now, but if that is the news, that this is something that you thought was a pretty good idea—and I agree with you that it was a pretty good idea—this might have influence on our folks out in the hall in getting them to sit down and solve this thing.

It would be awfully helpful, I am suggesting and I think all of us would agree, to have that kind of support.

Senator **D'Amato**. Well, if I might defend the counsel, I don't want to make him so expendable that he can't come back in the future. [General laughter.]

Senator **Dodd**. I will call the President on your behalf.

Senator **D'Amato**. The fact is, I think, if any one of the three Senators calls on your behalf, you may be in deep trouble.

But the fact is that, I believe, after having spoken to certain officials at the White House, as that political consensus grows, that this could be the vehicle by which we resolve this matter. They are definitely looking for that consensus. I think we have initiated it. I think the parties themselves will stimulate the rest of some of the delegation in New York who, unfortunately, are not aware of some of the details contained in this proposal. I think once they sign on that the consensus that they are looking for will be developed and that they will then be in a position to indicate that failing a settlement between the parties, they can support the legislation.

I am confident that that will take place.

Senator **Weicker**. Mr. Woodman, thank you very, very much.

Mr. **Woodman**. Thank you.

Senator **Weicker**. Now, I wonder if staff would notify the witnesses that the hearing is still in process, and as much as we all like to hold hallway press conferences, having done a lot of it, I would appreciate it if they would reappear in the hearing room.

The committee will stand in recess for 3 minutes while the various witnesses return.

[Brief recess.]

Senator **Weicker**. We will come back to order.

I have requested that Chairman Ravitch, if he could, appear once again with his counsel and Mr. Stangl. If you would go ahead and proceed, Mr. Ravitch?

Mr. **Ravitch**. My position is exactly as it was before: If there is an arbitration agreement signed we would be delighted to have the trains operate under the rules that they were operating under from January 1 through the date of the strike—which is consistent with your legislation.

We will not impose the crew consist provisions that we want, obviously, until the results of the arbitration. So we will operate the crew consist under the rules—as your proposed statute contemplates—prior to the 31st.

Senator DODD. Did you hear—I don't know if you were here——

Senator WEICKER. Senator Dodd.

Senator DODD. I don't know if you were in the room, but Mr. Beebe—or his counsel—described a working session where you had painfully gone through each of the issues and determined which ones were resolved and which ones were unresolved. It is their feeling that the unresolved ones, in addition to the one you just mentioned, will be the subject of binding arbitration, assuming that formula is agreed to.

Do you agree as well that this would be the understanding?

Mr. RAVITCH. That all unresolved issues would be subject to——

Senator DODD. Those issues that were unresolved after that meeting, that walkthrough session.

Mr. RAVITCH. Yes, Senator, but again, so the record is clear: These negotiations were conducted under the aegis of a very distinguished labor mediator in New York, Arvid Anderson. There are issues on which there may have been some broad agreement, but where no language was agreed to. And I think we can rely on the distinguished counsel to work that out, given the fact that the unions have testified on their willingness to do this. I am sure they said so in good faith, and I am sure there will be no difficulty in working out an arbitration agreement.

Senator DODD. The union people mentioned the mediator themselves, and that they would rely on the mediator to—I suppose it might be a good idea to rely on the mediator to determine which issues are outstanding.

Senator D'AMATO. I am certain that the counsels on both sides, with the able assistance of the mediator, can pin down those outstanding issues in the labor dispute.

Mr. RAVITCH. Yes, there is a cardinal principle in labor negotiations. It is one of the many things I have learned over the years from Mr. Kheel, who has been one of my most important teachers on this subject: Unless you are involved in a particular collective-bargaining situation you can't possibly understand what is going on. So I will follow Mr. Kheel's advice and respectfully suggest that he and Mr. Kadin can work out an arbitration agreement satisfactorily.

Senator DODD. The only reason that I mention this at all is that there is some framework, that we understand. That we don't come out of this thing not having understood each other.

Senator WEICKER. Well, as I understand the framework, the framework is the legislation that is the subject matter of this hearing.

Mr. RAVITCH. I don't think there is anything that I would advocate that is inconsistent with that legislation, Senator, but I don't want to mislead you in any sense.

I am saying that our counsel will agree with counsel for the unions on procedure for the arbitration, that their agreement will set forth all the issues and the mediator will help determine what issues, are still open. And as soon as the agreement is signed, I am prepared—not only prepared, but eager—to resume service on the railroads.

Senator **Weicker**. Mr. Kheel, you had a comment you wanted to make?

Mr. **Kheel**. If I may, Mr. Chairman, add a recommendation to the union and, if I may, to the MTA, that if, assuming as I hope and expect the committee's vote to accept, that the parties forthwith enter into a very simple stipulation, hereby stipulating and agreeing to arbitrate the unresolved issues precisely in accordance with the language of the proposed legislation, which would be attached to the stipulation and then signed by both parties. I think that ought to do it.

I think the legislation is brief, to the point, and I commend whoever it was involved in the drafting of it, for having done a splendid job.

Senator **D'Amato**. And obviously, if the parties agree to moving up the dates to designate the arbitrators, the process may move forward more rapidly.

Mr. **Kheel**. Of course.

Senator **Weicker**. I want to make clear that I am about ready to bring this hearing to an end—certainly any other Senator or Congressman can ask any questions they wish. However, I think we are almost at the point here where trying to pin things down to a greater degree by this committee, which has not been involved in the negotiations, is counterproductive.

Mr. **Ravitch**. Thank you, Senator.

Senator **Weicker**. And I would thank all of the witnesses. Hopefully there will be communication tomorrow, once the union has polled its members, both with the committee and with Chairman Ravitch and the MTA.

Now, at this time, are there any further questions by members of the committee or by our friends in the parties?

Mr. **Ratchford**. Well, Mr. Chairman, just to be sure that there will be communication this weekend, we are not leaving here with an understanding that it is going to be Monday or Tuesday before we hear anything?

Senator **Weicker**. Well, that seems to me to be up to the union in terms of relaying the results of this poll.

Mr. **Ratchford**. That was my understanding, and I was very pleased with that response.

Mr. **Ravitch**. I assume Mr. Kheel will call Mr. Kadin as soon as he hears—may I finish, please?

Mr. **Kheel**. I wish to ask the union representatives specifically with reference to communications to this committee regarding the vote of their members.

Mr. Beebe, and Mr. Frear, I presume that you will be the persons to communicate to this committee tomorrow what the action is of your members. Is that correct?

Mr. **Beebe**. That is correct.

Mr. **Frear**. As soon as I can expeditiously call my committee.

Senator **Weicker**. Thank you very much.

Mr. **Ravitch**. I will assure you, Senator, that as soon as Mr. Kheel informs Mr. Kadin that the union has agreed to this, the two of them will sit down.

Senator **Weicker**. At this point I order printed all statements of those who could not attend and other pertinent material submitted for the record.

[The material referred to follows:]

Congress of the United States
House of Representatives

437 Cannon House Office Building
Washington, DC 20515

Bruce A. Morrison
Member of Congress
Third District, Connecticut

STATEMENT OF CONGRESSMAN BRUCE A. MORRISON
THIRD DISTRICT, CONNECTICUT

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES
APRIL 15, 1983

The basis of American labor law is collective bargaining. We want collective bargaining to be used as the preferred method for resolving disputes between labor and management. We have tried during the weeks that the Metro-North dispute has been pending to promote the use of collective bargaining for the solution of this dispute. Unfortunately we appear to have reached a stalemate in the negotiations. We appear unable to resolve this dispute through the collective bargaining process without the assistance of public officials.

The costs of the labor dispute are severe. Many individuals depend on Metro-North for their economic well-being. People use the railroads to commute to work. Many thousands of people also are employed as a result of the running of the Metro-North railroad. These individuals are either out of work as a result of the strike or their ability to commute has been made much more difficult. A solution is absolutely essential, and we must find one promptly. Otherwise, we run the risk that we will not be able to restore this critical

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rail service. Many may turn away from this energy-efficient and sensible form of transportation in frustration during this long period of disruption.

In order to settle this dispute a creative use of binding arbitration is appropriate. The principles of settlement should be these. The agreements that have been reached between the parties should be implemented. The conductors represented by the U.T.U. should return to work under the working conditions which prevailed prior to the March 6th strike, except for those issues on which agreement has not been reached. Those issues should be submitted to binding arbitration.

This structure of settlement could be accepted by the parties without the need of legislation. This would be by far the preferable result because we prefer in our structure of labor-management relations to rest on voluntary agreement rather than enforced settlement. I therefore urge the parties to accept these principles for settlement, to agree to them voluntarily and to proceed on this basis without legislation.

If this agreement cannot be reached I believe that the bill originally drafted by Congressman McKinney presents the correct framework for moving forward to a legislative solution. This bill, which I have agreed to co-sponsor, will provide the framework in accordance with the principles for settlement which I have set forth previously. I will be pleased to work with the other members of the congressional delegation in both the House and the Senate to refine this legislation if it is necessary to bring about a settlement along these lines.

However, I emphasize that it would be preferable if the parties themselves would agree to this framework for settlement and proceed ahead. The result would be trains back in operation, people back at work and a voluntary agreement that would ultimately lead to a resolution of this difficult labor-management dispute.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

APR 7 1983

The Honorable Mario Cuomo
Governor of New York
2 World Trade Center
New York, New York 10047

Dear Governor Cuomo:

The President has asked me to respond to your recent telegram concerning the current strike on the Metro North commuter rail lines in New York and Connecticut. You asked us to intervene in the dispute by asking Congress for special legislation to impose a settlement on the parties.

I share your deep concern over that work stoppage, which has halted service and seriously inconvenienced some 80,000 rail commuters in the metropolitan area for more than a month. However, we believe that labor disputes on local transit systems should be resolved locally, through collective bargaining.

The Federal government does not impose settlements in collective bargaining disputes on other types of mass transit systems. Federal intervention in this instance could set an unfortunate precedent, and result in transit authorities and labor unions looking to Washington to settle various types of local disputes. As you know, this Administration is firmly opposed to Federal involvement in mass transit operational decisions.

Your telegram suggested that the Federal government should intervene in this dispute because labor relations on Metro North are governed by Federal rail labor laws. Those Federal laws were designed to encourage collective bargaining, and they do preempt the States from applying their own labor laws. However, that is not a new development. Congress has for many years decided that Federal law should apply to labor disputes on the nation's railroads, including commuter rail lines. But while Congress has set the "ground rules" for those disputes, we do not believe that justifies asking the Federal government to actually impose the specific terms of a labor contract.

As the basis for an imposed settlement, you suggested the recommendations of the Emergency Board appointed by the President last fall. I have great respect for the three members of that Board, and for the valuable public service they rendered in their deliberations and final report. I urge both the Metropolitan Transportation Authority and the United Transportation Union to consider the Board's recommendations carefully as a possible basis for settling the current dispute.

Nonetheless, we would not urge the use of Federal law to dictate the final terms of settlement. The MTA and UTU are most familiar with the issues and local needs; they are best able to determine a proper settlement. Congress reached the same conclusion less than two years ago, when it decided to make Emergency Board recommendations non-binding in labor disputes on Metro North and other rail lines run by local commuter authorities.

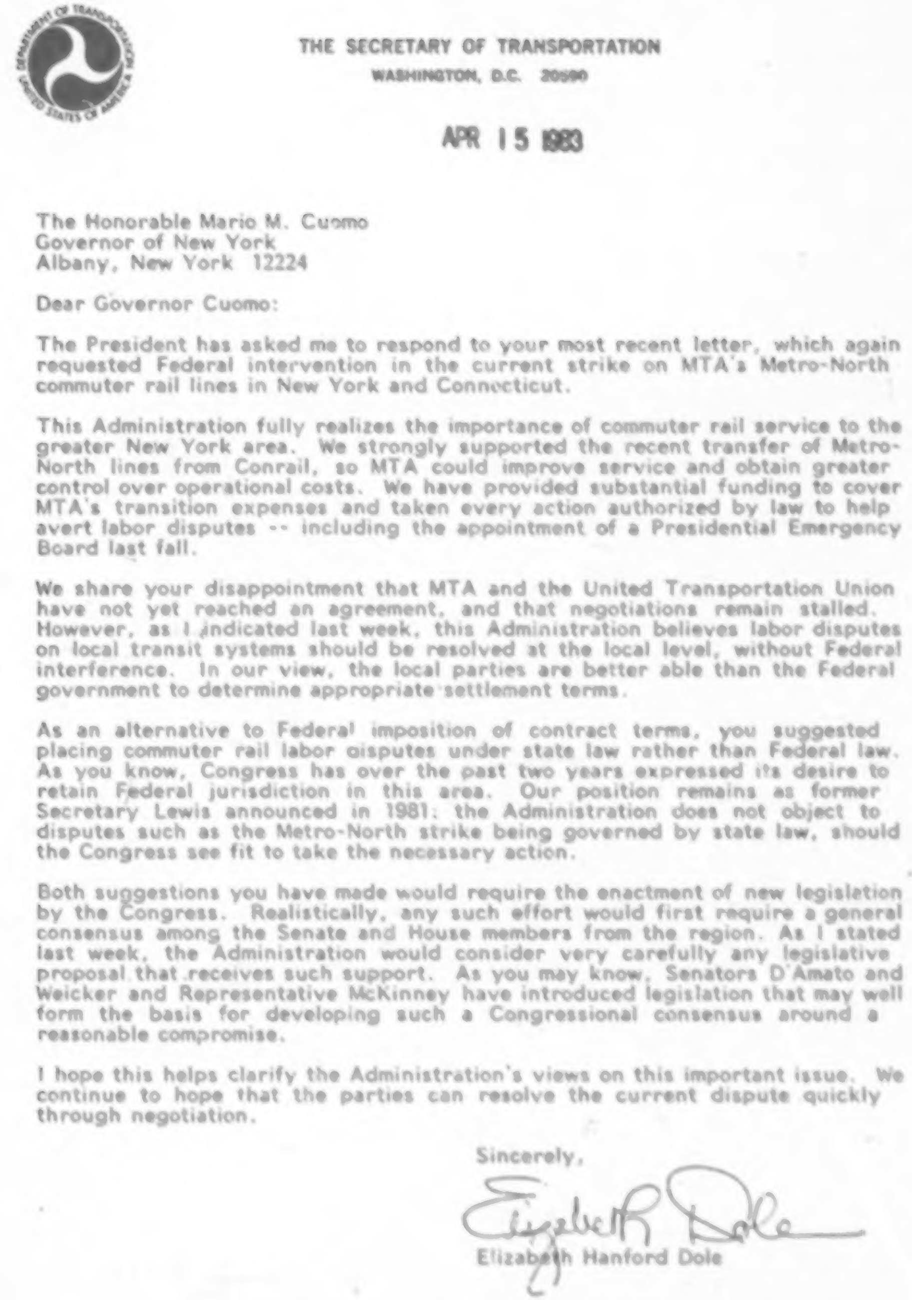
In our judgment, Federal interference with the collective bargaining system is justified only when overriding national interests are at stake. Of course, if the current strike persists and a consensus for Federal action develops among members of Congress from the region, the Administration would carefully consider any responsible legislative proposal that is put forward.

MTA and all but one of the rail labor organizations on Metro North have reached agreement without Federal intervention. We believe that MTA and UTU can and should do the same. I urge both MTA and the UTU to continue their efforts to reach a reasonable agreement as quickly as possible, so that rail service can soon be restored for the many commuters who travel Metro North.

Sincerely,

Elizabeth Dole

Elizabeth Hanford Dole



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

APR 15 1983

The Honorable Mario M. Cuomo
Governor of New York
Albany, New York 12224

Dear Governor Cuomo:

The President has asked me to respond to your most recent letter, which again requested Federal intervention in the current strike on MTA's Metro-North commuter rail lines in New York and Connecticut.

This Administration fully realizes the importance of commuter rail service to the greater New York area. We strongly supported the recent transfer of Metro-North lines from Conrail, so MTA could improve service and obtain greater control over operational costs. We have provided substantial funding to cover MTA's transition expenses and taken every action authorized by law to help avert labor disputes -- including the appointment of a Presidential Emergency Board last fall.

We share your disappointment that MTA and the United Transportation Union have not yet reached an agreement, and that negotiations remain stalled. However, as I indicated last week, this Administration believes labor disputes on local transit systems should be resolved at the local level, without Federal interference. In our view, the local parties are better able than the Federal government to determine appropriate settlement terms.

As an alternative to Federal imposition of contract terms, you suggested placing commuter rail labor disputes under state law rather than Federal law. As you know, Congress has over the past two years expressed its desire to retain Federal jurisdiction in this area. Our position remains as former Secretary Lewis announced in 1981: the Administration does not object to disputes such as the Metro-North strike being governed by state law, should the Congress see fit to take the necessary action.

Both suggestions you have made would require the enactment of new legislation by the Congress. Realistically, any such effort would first require a general consensus among the Senate and House members from the region. As I stated last week, the Administration would consider very carefully any legislative proposal that receives such support. As you may know, Senators D'Amato and Weicker and Representative McKinney have introduced legislation that may well form the basis for developing such a Congressional consensus around a reasonable compromise.

I hope this helps clarify the Administration's views on this important issue. We continue to hope that the parties can resolve the current dispute quickly through negotiation.

Sincerely,

Elizabeth Dole

Elizabeth Hanford Dole

Senator **Weicker**. The hearing is adjourned. Thank you, gentlemen.

[Whereupon, at 3:06 p.m., the hearing was recessed, to reconvene at the call of the Chair.]

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